

SEC. 10-1.2630 MISSION-GARIN AREA SPECIAL DESIGN DISTRICT
(SD-5).

a. **Purpose.**

The purpose of the Mission-Garin Area Special Design District (SD-5) is to ensure the orderly development of the Mission-Garin Area (see map, below), consistent with the policies and strategies contained in the General Plan and the provisions of the Hillside Design Guidelines. This District establishes the total dwelling unit potential (see table, below) for the area within the District and sets forth development standards and design guidelines that apply to future development within this District.

b. **Dwelling Unit Allocation.**

Development for any parcel or combination of parcels will be consistent with the dwelling unit allocation set forth in the table set forth below. Adjustments to the dwelling unit allocations for specific properties may be considered by the City Council based on presentation of more detailed data, findings of site-specific environmental analyses, and/or as a result of the application of the development standards outlined below during the review of individual development projects. In no case will the total number of dwelling units exceed the maximum shown for the entire District. For any parcels not specifically identified in the attached table, the number of dwelling units to be allocated will be determined by the City Council in a manner consistent with that used for properties included in the table and supported by adequate environmental analysis.

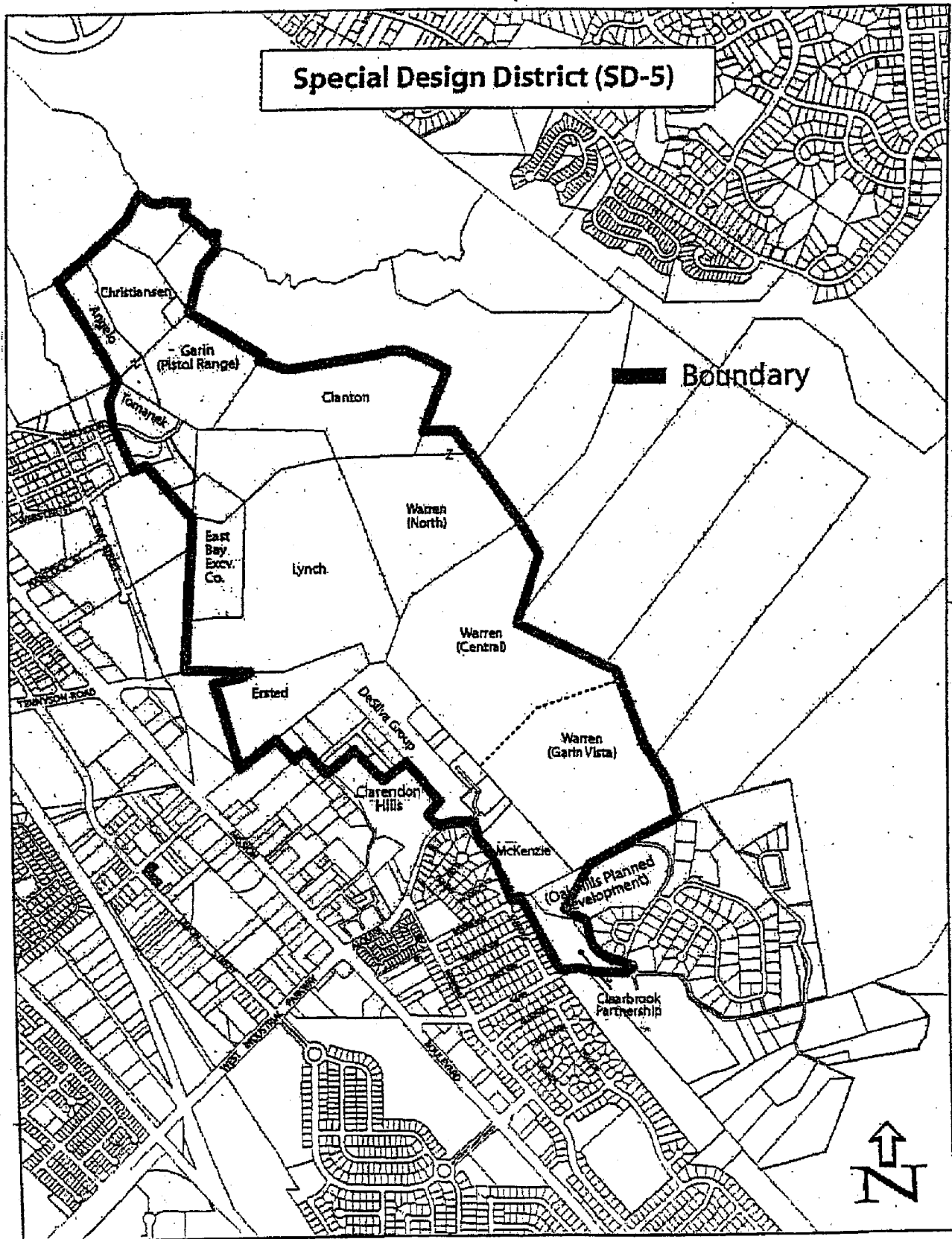
c. **Development Standards and Design Guidelines.**

Clustering of residential development is encouraged, with development located so as to avoid geologic hazards, minimize grading and preserve significant natural site features, such as rock outcroppings, nature trees, natural drainage courses and scenic views. Preferred hillside development includes clustering of dwelling units, whether single-family or multi-family, separated by inter-connected natural open space or greenbelt corridors.

New development will adhere to the following development standards and design guidelines. To the extent that the following provisions conflict with the Hillside Design and Urban/Wildland Interface Guidelines, the following standards shall prevail. As required by the established review process, proposed development projects will be referred to the Planning Commission and, as appropriate, the City Council, for review and action.

- (1) In order to promote the preservation of natural features while achieving the development potential established for this District, Planned Development applications may be required.
- (2) Development is not permitted within areas where natural slopes are generally greater than 25 percent.

- (3) Grading will be consistent with the Hillside Design Guidelines. For developments on slopes greater than 15 percent, at least 50 percent of the dwelling units will feature a stepped design.
- (4) The slope of streets will not exceed 12 percent unless necessary to minimize significant grading.
- (5) Pedestrian movement will be encouraged through the provision of pathways on at least one side of the street. On longer streets, pedestrian links between streets will be provided at a minimum of 750-foot intervals.
- (6) New construction, including new roadways, will be set back at least 100 feet from the top of any creek bank.
- (7) Exposed drainage systems will be constructed of materials that blend with the natural environment (e.g., grassy swales or river rock).
- (8) Development plans will feature the preservation of the greatest possible number of native trees, consistent with provisions of the Tree Preservation Ordinance.
- (9) Structures will be of high quality design, compatible with the natural surroundings and will feature darker earth-tone colors.
- (10) Lower portions of homes will be screened through the plantings of native trees and shrubs.
- (11) Preservation of views toward the bay in the hillsides will be incorporated into the design and layout of developments.
- (12) Detached single-family residential development projects will include at least 15% one-story units. A lesser amount may be considered based on topographic conditions.
- (13) Architectural plans should utilize stepped or transitional front elevations, with the entries and windows visible from the street. The plans should feature alternating roof lines and forms, and incorporate decorative siding materials, entry doors and windows.
- (14) Densities shall be developed to no less than the midpoint for the assigned density range.
- (15) Computer visual simulations are required as part of application submittals for any new development. Vantage points are to be approved by staff.



MISSION-GARIN AREA SPECIAL DESIGN (SD-5) DISTRICT
Maximum Total Dwelling Unit Potential

The SD-5 special design district comprises approximately 363 acres. The maximum dwelling unit potential shown in the table below excludes parcels/areas totaling approximately 57 acres within the district that are considered as developed or rural home sites with little potential for subdivision due to size, slope, earthquake faults, etc.

Owners of Parcels	Maximum Potential Dwelling Units
Christiansen	1
Angelo	1
Garin (Pistol Range)	1
Tomanek	1
Clanton	3
Ersted	115
La Vista Quarry ¹	16
Warren (Garin Vista)	115
McKenzie	54
Clearbrook Partnership ²	13
TOTALS:	320

¹Consists of the following parcels/areas:
 Lynch/East Bay Excavating Co./Warren (North)/Warren
 (Central)/DeSilva Group

²Does not include the potential for an additional
 12 dwelling units associated with the approved
 Oak Hills Planned Development

DEVELOPMENT AGREEMENT
BY AND BETWEEN
LA VISTA L.P., A CALIFORNIA LIMITED
PARTNERSHIP
AND
THE CITY OF HAYWARD

DM: 6/29/2005 3:00 PM

DP: 7/1/2005 11:44 AM

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ATTACHMENT G

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LA VISTA PROJECT DEVELOPMENT AGREEMENT

THIS AGREEMENT ("Agreement") is entered into this _____ day of ____, ____, (the "Agreement Date") by and between La Vista L.P., a California limited partnership ("OWNER"), and the CITY OF HAYWARD, a municipal corporation, organized and existing under the Hayward City Charter and laws of the State of California ("CITY").

RECITALS

This Agreement is entered into based upon the following facts:

- A. When used in these Recitals, each of the terms defined in Section 1 of this Agreement shall have the meaning given to it therein.
- B. Government Code Sections 65864-65869.5 authorize CITY to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property, in order to, among other things: encourage and provide for the development of public facilities in order to support the development of new housing; provide certainty in the approval of development projects in order to avoid the waste of resources and the escalation in the cost of housing and other development to the consumer and encourage investment in and commitment to comprehensive planning which will make maximum efficient utilization of resources at the least economic cost to the public; and, to provide assurance to developers (1) that they may proceed with their projects in accordance with existing policies, rules and regulations, subject to their conditions of approval and (2) in order to strengthen the public planning process.
- C. OWNER is the holder of a legal or equitable interest in the Property legally described in Exhibit A, and desires and intends to develop the Property as a limited medium density residential development for the uses and purposes set forth in the Development Plan. The Development of the Property requires substantial early and major capital expenditures and investments with respect to the

construction and installation of major infrastructure and facilities, both on-site and off-site, including, without limitation, a neighborhood park and detention basin, a contribution to the community center/additional park area, road improvements, a water tank and a contribution to off-site affordable housing (the "Project"), to serve the residents and others using the Property as anticipated by the General Plan, the Development Approval(s) listed on Exhibit B and this Agreement.

D. CITY has determined that the Development Plan implements the goals and policies of CITY's General Plan (as referenced in Government Code Sections 65450 et seq.) applicable to the Project and provides appropriate land uses and imposes appropriate standards and requirements with respect to land development and usage so as to maintain the overall quality of life and of the environment within CITY.

E. Pursuant to Government Code Section 65865, CITY has adopted the CITY Development Agreement Ordinance, establishing procedures and requirements for the consideration of proposed development agreements.

F. OWNER has applied for, and CITY has adopted certain development approvals listed on Exhibit C, including amendments to the General Plan pursuant to OWNER's applications for General Plan Amendment No. PL-2005-0157, a change of zoning pursuant to Zone Change No. PL-2005-0158 and associated Preliminary Development Plan, and approval of a Vesting Tentative Tract Map (7620) (hereafter "the Current Development Approvals"). Specifically, the Project includes: 1) amendments to the City of Hayward's General Plan Land Use designations to *Limited Medium Density Residential* for the residential portion of the site, to *Parks and Recreation* for the neighborhood park and community center/additional park sites, with the remainder of the site proposed to remain *Limited Open Space* and 2) amendments to zoning/prezoning designations, to a *Planned Development District (PD)* for the residential area of the property and eastern hillside and to *Open Space/Parks and Recreation (OS)* for the neighborhood park and community/additional park center areas, with the remainder of the site to

remain as *Agriculture (AB10A)*. This Development Agreement will protect the interests of CITY's existing and anticipated citizens and the quality of their community and environment through the planned development process. As part of the process of approving the Development Plan authorized by the Current Development Approvals, CITY has analyzed the environmental effects of this Project, adopted a Mitigated Negative Declaration on _____, and made the necessary findings required by the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") pursuant to Resolution No. _____, and adopted a mitigation monitoring plan pursuant to Resolution No. _____.

G. The CITY's staff has reviewed this Agreement and deemed it to be complete and prepared a report to the Planning Commission pursuant to CITY Municipal Code Section 10-9.05 regarding this Agreement's consistency with the CITY's General Plan. The Planning Commission has made a recommendation containing the necessary findings set forth in the CITY Municipal Code Section 10-9.08 which recommends that the City Council authorize execution of a Development Agreement. The City Council has held a public hearing, and found and determined that this Agreement: (i) is consistent with CITY's General Plan, as amended; (ii) is in the best interests of the health, safety and general welfare of CITY, its residents and the public; (iii) is entered into pursuant to and constitutes a present exercise of the police power by CITY; and (iv) is entered into pursuant to and complies with the requirements of Section 65867 of the Development Agreement Legislation and the CITY Development Agreement Ordinance.

H. CITY adopted Ordinance No. _____ on _____, 2005, approving this Agreement and its execution in accordance with the provisions of the Development Agreement Legislation and CITY's Development Agreement Ordinance.

I. Based on the foregoing, OWNER and CITY desire to enter into this Agreement.

AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing recitals of fact, the mutual covenants contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

1. SECTIONS; DEFINITIONS AND EXHIBITS.

1.1 Sections and Paragraphs. Any reference in this Agreement to a "Section" is a reference to the indicated numbered section or sub-section of this Agreement and a reference to a "Paragraph" is a reference to the indicated paragraph of a Section.

1.2 Definitions. The following terms when used in this Agreement shall be defined as follows:

1.2.1 "Affordable Housing" means the affordable housing to be provided offsite, along with the associated plan, which is a part of the Development Approvals and is more fully described in Exhibit D. Approval of the Affordable Housing shall be in accordance with the City's Inclusionary Housing Ordinance.

1.2.2 "Building and Improvement Standards" means Regulations of CITY which are of general application which establish regulations and standards for the building, construction and installation of structures and associated improvements such as and including, without limitation, CITY's building, plumbing, mechanical, grading, swimming pool, sign and fire regulations.

1.2.3 "CITY" means the City of Hayward, a charter city located within the County of Alameda, State of California.

1.2.4 "CITY Development Agreement Ordinance" means Ordinance 84-015 C.S. (CITY Municipal Code Sections 10-9.01 through 10-9.15) which was adopted on July 10, 1984,

establishing a procedure for the consideration and approval of development agreements pursuant to the Development Agreement Legislation.

1.2.5 “Current Development Approvals” means those certain Development Approvals in effect on the Effective Date with respect to the Property, specifically the General Plan Amendment No. PL-2005-0157, Zone Change No. PL-2005-0158 which authorizes classification of the residential portion of the Property to a Planned Development District and related approval of the associated Preliminary Development Plan, and which amends the Mission-Garin Area Special Design District (SD-5) provisions, Vesting Tentative Tract Map (7620) and the abandonment of a portion of the Alquire Parkway right-of-way, as listed in Exhibit C.

1.2.6 “Development” means the improvement of the Property for purposes of building the structures, improvements and facilities comprising the Project including, without limitation: grading, the construction of infrastructure and public facilities related to the Project whether located within or outside the Property; the construction of structures and buildings, the dedication of open space, the dedication of land for the Affordable Housing, the dedication of land and construction of the community park and detention basins; the dedication of land for the Community Center or dedication of land and construction of the Additional Park area; the installation of landscaping; and the payment of certain monies related to the Community Center/Additional Park and the Affordable Housing; but not including the maintenance, repair, reconstruction or redevelopment of any structures, improvements or facilities after the construction and completion thereof, except as otherwise specifically provided herein.

1.2.7 “Development Agreement Legislation” means Sections 65864 through 65869.5 of the California Government Code as it exists on the Effective Date.

1.2.8 “Development Approval(s)” as listed in Exhibit B, means site specific plans, maps, permits and other entitlements to use of every kind and nature approved or granted by CITY in connection with the Development of the Property, including but not limited to: general plan

amendments, zone changes, including amendments to the Mission-Garin Area Special Design District provisions, preliminary and precise development plans, vesting tentative and final subdivision tract maps and related agreements, abandonment of a portion of the Alquire Parkway right-of-way, development and building permits for residences, the Community Park with Detention Basin (with improvements), the Community Center or Additional Park area (with improvements), the Affordable Housing, road improvements, water tank and related water system upgrades, recreational amenities, development allotments, and grading, building and other similar permits.

1.2.9 “Development Plan” means the development authorized by the Current Development Approvals listed in Exhibit C, including, without limitation, Resolution Nos. _____; and Ordinance Nos. _____ and _____, approving the preliminary development plan for and authorizing the reclassification of the residential area of the Property to a Planned Development District (“PD”), as requested by Zone Change Application No. PL-2005-0158, including approving amendments to the Mission Garin Area Special Design District (SD-5) provisions related to maximum total dwelling unit potential, and approving an amendment to the General Plan Land Use Map to change the residential density classification on the residential area to Limited Medium Density Residential.

1.2.10 “Effective Date” means the date which annexation of the property into the City of Hayward is executed and becomes effective.

1.2.11 “Existing Land Use Ordinances” means those certain Land Use Ordinances in effect on the Effective Date.

1.2.12 “Existing Land Use Regulations” means those certain Land Use Regulations in effect on the Effective Date, including but not limited to Existing Land Use Ordinances and Current Development Approvals.

1.2.13 "General Plan" means the Hayward General Plan adopted by the CITY, as amended by Resolution No. _____.

1.2.14 "Governing Policies" means (i) the policies specified in Section 4.1; and (ii) Existing Land Use Ordinances but not including Development Approvals.

1.2.15 "Land Use Ordinances" means the ordinances adopted or to be adopted by CITY which govern permitted uses of land, density and intensity of use and the design, improvement, and construction standards and specifications applicable to the Development of the Property, including, but not limited to, Ordinance No. _____, adopted on _____, 2005; zoning ordinances and zoning reclassifications, development moratoria, ordinances implementing growth management and phased development programs, ordinances establishing development exactions, subdivision and park codes and any other similar or related codes and Building and Improvement Standards.

1.2.16 "Land Use Regulations" means Regulations of CITY governing the permitted uses of land, density and intensity of use, including but not limited to adoption or amendment of CITY's General Plan and Mission Garin Area Special Design District (SD-5) provisions, and the design, improvement and construction standards and specifications applicable to the Development of the Property. Land Use Regulations include, but are not limited to, Land Use Ordinances and Development Approvals. The term Land Use Regulations does not include, however, regulations relating to the conduct of business, professions and occupations generally; taxes and assessments; regulations for the control and abatement of nuisances; encroachment and other permits and the conveyances of rights and interests which provide for the use of or entry upon public property; and, any exercise of the power of eminent domain.

1.2.17 "OWNER" means La Vista L.P., a California limited partnership.

1.2.18 “OWNER’s Obligations” means the obligations of OWNER to pay the sums, build and construct the improvements, dedicate the lands and improvements and undertake and perform the other actions described in Section 3.

1.2.19 “Project” means all phases of the development project contemplated by the Development Plan with respect to the Property, including but not limited to on-site and off-site improvements, as such development project is further defined, enhanced or modified pursuant to the provisions of this Agreement.

1.2.20 “Property” means those certain lands as to which OWNER had a legal or equitable interest on the Effective Date, as legally described in Exhibit A.

1.2.21 “Public Facilities” means those certain lands and facilities to be improved, constructed and dedicated or conveyed to the public pursuant to Section 3.1, as referenced in the Conditions of Approval, listed on Exhibit E.

1.2.22 “Recreational Facilities” means the recreational facilities associated with the Development Approvals consisting of a community park with stormwater detention basins (approximately 30 acres), with an alternative for a community center, and related park improvements, open space and trails within such areas.

1.2.23 “Regulations” means laws, statutes, ordinances, and codes (including the Building and Improvement Standards), resolutions, rules, regulations and orders; approvals, denials and conditional approvals in connection with vesting tentative and final subdivision tract maps, parcel maps, conditional use permits, variances and other permits of every kind and character; programs; and official policies and actions of CITY together with amendments to all of the foregoing.

1.2.24 “Reservations of Authority” means that the Agreement shall not prevent the CITY, in subsequent actions applicable to the Project, from applying new rules, regulations, and

policies applicable to the Property as set forth herein in Section 4 and allowed by applicable law, nor prevent the CITY from denying or conditionally approving any subsequent application on the basis of Existing Land Use Regulations.

1.2.25 "Schedule for Phasing and Construction" means:

Receive Current Development Approvals:	July 2005
Approval of Improvement Plans, Grading Plans and Final Maps	May 2006
Start Reclamation	May 2006
Start Subdivision and Recreational Facilities Improvements	May 2007
Start Homes	October 2007

The Developer has reserved its right to file multiple final maps on the lands shown on the Vesting Tentative Tract Map. It is currently anticipated that there will be a single phase of development and construction. Nothing prohibits earlier starts to schedule items as shown above, subject to normally-required approvals being granted.

1.2.26 "Quarry Entitlements" means the rights, privileges and obligations granted pursuant to Alameda County Surface Mining Permit SMP-37.

1.3 Exhibits. The reference to a specified "Exhibit" in this Agreement is a reference to a certain one of the exhibits listed below, as determined by the accompanying letter designation, which exhibits are attached hereto and by this reference made a part hereof.

<u>Exhibit Designation</u>	<u>Description</u>
A	Legal Description of La Vista Project Site
B	List of all Development Approvals
C	List of Current Development Approvals

D

Description of Affordable Housing

E

Conditions of Approval

2. MUTUAL BENEFITS AND ASSURANCES.

2.1 Purposes of Agreement. This Agreement is entered into for the purpose of carrying out the Development Plan for the Project in a manner that will ensure certain anticipated benefits to both CITY (including, without limitation, the existing and future residents of CITY) and OWNER as described in the RECITALS, and to provide to OWNER assurances regarding the Regulations that will be applicable to the Development of the Property, including but not limited to those relating to timing, density and intensity of development, that will justify the undertakings and commitments of OWNER described above and the substantial and early investment in major on-site and off-site infrastructure needed for the Project.

2.2 Undertakings and Assurances Contemplated and Promoted by Development Agreement Legislation. The mutual undertakings and assurances described above and provided for in this Agreement are for the benefit of CITY and OWNER and promote the comprehensive planning, private and public cooperation and participation in the provision of public facilities, the effective and efficient development of infrastructure and facilities supporting development and the mitigation of the impacts of development on the community which was contemplated and promoted by the Development Agreement Legislation.

2.3 Bargained For; Reliance by Parties. The assurances provided to OWNER in Section 4 are provided pursuant to and as contemplated by the Development Agreement Legislation and are bargained and in consideration for the undertakings of OWNER set forth in Section 3 of this Agreement.

3. OWNER'S OBLIGATIONS; PROVISION OF PUBLIC BENEFITS.

3.1 In General; Public Benefits.

(a) Public Benefits. It is acknowledged that a primary purpose of this Agreement is to provide for the coordinated completion of the Affordable Housing described in Exhibit

D, the Recreational Facilities and the Public Facilities referenced in Exhibit E which will better serve the Development of the Property, as well as contributions and dedications which aid in offsetting the impacts of the Project on the community at large, and provide substantial public benefits, which are referenced in Exhibit E. Accordingly, OWNER shall promptly (to the extent that a time for performance is specified herein or in an Implementation Agreement executed pursuant to Section 3.2) and fully perform OWNER's Obligations as set forth in and subject to the terms and conditions of Exhibit E, including, but not limited to, the dedication of land, the construction of site improvements and the contribution of funds for the Affordable Housing, the construction and dedication or conveyance of the Public Facilities, and the dedication of land, the construction of site improvements and the contribution of funds for the Recreational Facilities.

(b) Existing Conditions and Undertakings. OWNER shall continue to be obligated to, and shall, perform all of the duties and obligations provided for or required by any provisions of the General Plan, the Development Plan, the Current Development Approvals, and the conditions contained in Exhibit E in connection with the Development of the Property. OWNER shall have no obligation under this Agreement to proceed with development of the Project, if it decides, in its sole discretion, that it is unable or unwilling to construct the Project. If OWNER fails to complete any Project phase or Development Approval requirement, CITY may after providing OWNER with notice and opportunity to cure, and an opportunity for a public hearing, modify or cancel the Development Approvals. CITY may also terminate this Agreement pursuant to Section 10.1 if OWNER fails to construct the Project in accordance with the Development Approvals.

3.2 Dedication, Construction and Conveyance of Public Facilities. The Public Facilities to be dedicated (in the case of lands) and/or constructed by OWNER and dedicated or conveyed to CITY as referenced in Exhibit E, shall be completed in accordance with the provisions of Exhibit E and designs, specifications and standards promulgated by CITY in accordance with the Existing Land Use Regulations and Precise Development Plan and dedicated and conveyed to CITY in fee, free of all liens and

encumbrances of every kind and nature except as expressly set forth in Exhibit E or agreed in writing by CITY. In order to effectuate the purposes of this Agreement, OWNER and CITY may enter into one or more agreements (hereinafter jointly "Implementation Agreement(s)") prior to the filing and recording of each Final Map necessary for the Property. Such Implementation Agreement(s) may take the form of a Subdivision Improvement Agreement. Each Subdivision Improvement Agreement shall provide the specific terms and set forth standards and deadlines for the construction and completion of the Public Facilities and their conveyance to CITY as provided for in this Agreement, and construction of privately owned infrastructure and common facilities necessary for the subdivision or phase described in the Vesting Tentative Map and Precise Development Plan approval.

3.3 Relationship of Parties. In performing OWNER's obligations, OWNER is acting under this Agreement as an independent contractor and is not acting as the agent or employee of CITY nor shall anything in this Agreement be construed as creating between OWNER and CITY a partnership or joint venture for any purpose.

3.4 Public Works. If OWNER is required by this Agreement to finance and either design or construct any public works facilities which will be dedicated or conveyed to CITY or any other public agency upon completion, and if required by applicable laws to do so, OWNER shall perform such work in accordance with CITY specifications.

3.5 Obligations Regarding Public Facilities. In any instance where OWNER is required to construct any Public Facilities on lands within City not owned by OWNER, OWNER agrees to use its best efforts to acquire any rights-of-way, easements, or other property rights or interests within City which CITY reasonably determines to be necessary for such Public Facilities. In the event that OWNER is unable to acquire any such property right or interest and it becomes necessary for CITY to utilize eminent domain to acquire any real property rights or interests necessary for the construction of such Public Facilities, OWNER shall be obligated to pay for the costs of acquiring such rights or interests,

including but not limited to relocation costs, costs of suit and attorney's fees. In any instance where OWNER is required to pay for a portion of the costs of construction of Public Facilities on lands outside of City, OWNER shall be required to contribute its share of the reasonable costs of construction and acquisition either prior to the commencement of construction or acquisition of any rights-of-way, easements or interests reasonably required to construct such Public Facilities.

3.6 Effect on Project Schedule. In any instance where CITY is responsible for constructing any Public Facilities for which OWNER is required to pay for all or a portion of the costs of such construction and any related land acquisition, OWNER shall cooperate with the CITY and CITY shall use its best efforts to construct any such Public Facility to achieve the timing goals of the phasing plan approved by CITY or timing of build out and occupancy of the Project. The CITY's inability to complete construction of any Public Facility necessary for the Property due to circumstances beyond the CITY's control shall not constitute a default of this Agreement.

3.7 Benefit Assessment District/Reimbursement Agreement. Upon OWNER's request and payment of CITY's processing charges, the CITY shall initiate proceedings to establish a benefit assessment district or a reimbursement agreement to the extent that the off site system improvements constructed or financed by OWNER pursuant to Exhibit E benefit other properties which are hereafter developed, and OWNER has not been reimbursed for such costs.

4. REGULATIONS GOVERNING THE DEVELOPMENT OF THE PROPERTY AND OTHER CITY OBLIGATIONS.

4.1 Governing Policies. The following policies set forth in this Section.4.1 are consistent with and are provided for in or contemplated by the Existing Land Use Regulations, including the General Plan and the Development Plan.

(a) Permitted Uses. The uses permitted hereunder in accordance with the Existing Land Use Regulations, including but not limited to the following: residential, public and

community facilities, recreational facilities, open space and other public and private recreation facilities, as more specifically described in and subject to the limitations of the Development Plan.

(b) Number of Dwelling Units, Density and Intensity. The maximum total number, density and intensity of residential units permitted hereunder in accordance with the Existing Land Use Regulations, are as set forth in the Development Plan.

(c) Maximum Height and Size of Buildings. The maximum height and size of the Project buildings within the Property are as permitted in accordance with the Development Plan.

(d) Reservations and Dedications of Lands for Public Purposes and Undertaking to Participate in Completion of Major Public Facilities. As provided in Section 3 and more specifically detailed in Exhibit E, OWNER has undertaken to dedicate certain lands and construct and convey to the public the Public Facilities; to dedicate land for, to construct site improvements for, and to contribute certain funds for the Recreational Facilities; and to dedicate land for, to construct site improvements for, and to contribute certain funds for the Affordable Housing; and to provide certain public benefits. In addition, the Existing Land Use Regulations and Current Development Approvals require OWNER to provide and undertake certain other public benefits and facilities.

(e) Moratoria, Phasing of Development. The parties acknowledge and agree that the Governing Policies contemplate and provide for the phasing of the Development of the Property and that except as expressly provided in this Section 4, no subsequent CITY imposed moratorium, ordinance, resolution, or other land use regulation or limitation on the conditioning, rate, timing or sequencing of the Development of the Property or any portion thereof shall apply to or govern the Development of the Property during the term hereof whether affecting parcel or subdivision maps (whether tentative, vesting tentative, or final), building permits, occupancy permits or other entitlements to use issued or granted by CITY. In the event of any such subsequent action by CITY, OWNER shall continue to be entitled to apply for and receive Development Approvals in accordance with the Existing Land Use Regulations and

Ordinances, and to otherwise develop the Property subject only to the exercise of the reservation of Authority set forth in Section 4.3, the limitations described in Section 4.4 and the terms of this Agreement.

4.2 Regulation of Development.

(a) In General. Notwithstanding any future action of CITY, whether by ordinance, resolution, initiative or otherwise, the CITY Land Use Regulations applicable to and governing the Development of the Property during the term hereof shall be the Existing Land Use Regulations except and subject to the Reservations of Authority and the terms of this Agreement.

(b) Vested Rights. In developing the Property, OWNER is provided and assured the vested right to require that the Land Use Regulations of CITY applicable to and governing the Development of the Property during the term hereof shall be as provided in this Section 4.2.

4.3 Limitations. Reservations and Exceptions. Notwithstanding anything to the contrary set, forth in Section 4.2 herein above, in addition to the Existing Land Use Regulations, only the following Land Use Regulations adopted by CITY hereafter shall apply to and govern the Development of the Property ("Reservations of Authority"):

(a) Future Regulations. Future CITY Land Use Regulations which are not in conflict with the Governing Policies or which are in conflict with the Governing Policies and the application of which to the Development of the Property has been consented to in writing by OWNER;

(b) State and Federal Laws and Regulations. Existing and future State and federal laws and regulations, together with any CITY regulations, programs and actions, or inaction, which are reasonably (taking into consideration, among other things, the assurances provided to OWNER hereunder) adopted or undertaken by CITY in order to comply with mandatory state and federal laws and regulations; provided, that in the event that State or federal laws and regulations prevent or preclude

compliance with one or more provisions of this Agreement, such provisions shall be modified or suspended as may be necessary to comply with such State and federal laws and regulations, in which event this Agreement shall remain in full force and effect to the extent that it is not inconsistent with such laws and regulations and that performance of the remaining provisions would not be inconsistent with the intent and purposes of this Agreement;

(c) Public Health and Safety. Land Use Regulations which are adopted by CITY, which may be in conflict with the Governing Policies which are reasonably required in order to prevent a condition dangerous to the health or safety of the residents of the Project or adjoining properties;

(d) Building and Improvement Standards. Present and future Building and Improvement Standards, except that (taking into consideration the assurances to OWNER in Section 4) any future amendment thereto which reduces the amount of land within the Property which can be utilized for structures and improvements or increases the amount of open space within the Project under the Development Plan shall not be considered a provision of any of the Building and Improvement Standards included within the exception provided by this Paragraph 4.3(d) and shall not apply to and govern the Development of the Project unless it complies with another exception under this Section 4.3 (such as, for example, Paragraph 4.3 (c));

(e) Processing Fees and Charges. Legally allowed processing fees and charges of every kind and nature imposed or required by CITY under current or future Regulations covering the actual costs of CITY in (i) processing applications and requests for permits, approvals and other actions and (ii) monitoring compliance with any permits issued or approvals granted or the performance of any conditions with respect thereto or any performance required of OWNER hereunder; and

(f) Taxes, Fees and Assessments. CITY may impose taxes, assessments and fees, as allowed by the Existing Land Use Ordinances and the Existing Land Use Regulations, necessary to implement the Project, as detailed in Exhibit E. The amount of any fees, taxes and assessments applicable to the Project may be reasonably increased over time so long as the increase is applied consistently to all comparable land or projects subject thereto.

4.4 Regulation by Other Public Agencies. It is acknowledged by the parties that other public agencies not within the control of CITY possess authority to regulate aspects of the Development of the Property separately from or jointly with CITY and this Agreement does not limit the authority of such other public agencies.

4.5 CITY Cooperation. CITY will cooperate with OWNER and take such additional actions as may be reasonably requested by OWNER to implement this Agreement, including but not limited to, formation of a Geologic Hazard Abatement District ("GHAD") necessary to maintain and, if necessary, repair the lands within Parcel A as shown on the Vesting Tentative Tract Map, formation of a special benefit assessment district(s) for the financing of the construction, improvement, or acquisition of public infrastructure, facilities, lands to benefit the Project, its residents and the CITY in general; provided, however, any such action shall be subject to CITY's Reservations of Authority. In performing any and all of its obligations under this Agreement CITY shall do so in a timely manner and CITY's failure to carry out any of its obligation under this Agreement in a timely manner shall relieve OWNER from compliance with any reasonably related requirement or obligation under this Agreement.

4.6 Sewer and Water Capacity. OWNER shall design, construct and fund, or contribute 100% to the cost of constructing the water system improvements, pursuant to Exhibit E requirements. For those off-site water system improvements which the OWNER is obligated to design and fund, and CITY is obligated to construct, CITY shall use its best efforts to complete such improvements in an expeditious and timely manner to enable timely issuance of Project building permits and certificates of occupancy.

Any failure by CITY to construct or complete any such Public Facility necessary for operation of the Project, or any phase thereof that makes it impossible for OWNER to comply with the Development Approvals or with this Agreement, or to construct the Project in accordance with the phasing plan approved by CITY, shall not constitute a breach or default under this Agreement. CITY acknowledges that, with the water and sewer improvements to be implemented by OWNER, there is adequate water and sewer capacity to serve the Project.

4.7 Acceptance of Dedications. CITY shall accept in a timely manner all dedications and conveyances of Public Facilities from OWNER.

4.8 Credit and Reimbursement Generally. At the time of each final map approval for any portion of the Project, CITY shall reimburse OWNER, to the extent that CITY has received contributions defraying the cost of such improvements from other benefited property owners, or consider establishment of a benefit assessment district or reimbursement agreement, or grant a credit for, all funds expended, costs incurred or improvements made by OWNER pursuant to OWNER'S obligations as set forth in Exhibit E to the extent that OWNER's contributions or improvements directly benefit other development.

4.9 Credit for Infrastructure. City agrees to condition approval of any project that would rely on Owner-funded Public Facilities improvements upon payment on a per-unit basis of the fair share of the cost of such Public Facilities improvements. At least three such projects (identified below) can be particularly identified as of the date of this Agreement, although the City's obligation under this section would apply equally to any such projects identified in the future. If other development that will rely on infrastructure precedes the Project, credits shall be made against the Development Fees at the time they are paid. If other development to rely on Project infrastructure succeeds Project, Owner shall be reimbursed by the City in an amount equal to the required credits.

4.9.1 Ersted Parcel. (Assessor's Parcel Number 078C-0461-001-13)

4.9.2 Smith Parcel. (Assessor's Parcel Number 083-0125-001-12)

4.9.3 Zaballos Parcel U (Assessor's Parcel Number 083-0254-002-03)

5. PERIODIC REVIEWS.

5.1 Annual Review. CITY and OWNER shall review the performance of this Agreement, and the Development of the Project, at least once every twelve (12) month period from the Effective Date. The CITY's reasonable costs of monitoring this Agreement shall be paid by OWNER. As part of such annual monitoring review, within thirty (30) days after each anniversary of this Agreement, OWNER shall deliver to CITY:

(a) a then current build-out phasing plan for the Project; and

(b) all information reasonably requested by CITY (i) regarding OWNER's performance under this Agreement demonstrating that OWNER has complied in good faith with terms of this Agreement and (ii) as required by the Existing Land Use Regulations.

If as a result of such periodic review, CITY finds and determines, on the basis of substantial evidence, that OWNER has not complied in good faith with any of the terms or conditions of this Agreement, CITY may terminate this Agreement as provided in Section 10.2.

6. TRANSFERS AND ASSIGNMENTS.

6.1 Transfers and Assignments of Rights and Interests.

(a) General. Neither party shall assign or transfer any of its interests, rights or obligations under this Agreement to another without the written consent of the other, which consent shall not be unreasonably withheld. The CITY shall promptly consent to the assignment if the CITY determines that all of the following requirements are met: (1) the OWNER shall not be in default of this Agreement, (2) the purchaser or assignee shall be willing and capable of complying with the terms and

conditions of this Agreement and shall have agreed to comply with this Agreement, and (3) the purchaser or assignee shall execute any document reasonably requested by the CITY with respect to the assumption of the OWNER's obligations under this Agreement. In the event OWNER assigns, or transfers its interest in the Project, OWNER shall ensure that any such assignment or transfer includes an assignment or transfer of OWNER's obligations under this Agreement. OWNER shall also provide CITY with sufficient documentation of such assignment or transfer of OWNER's duties and obligations. The term "assignment" as used in this Agreement shall include successors-in-interest to the CITY or OWNER that may be created by operation of law. Notwithstanding the foregoing, CITY shall have the right to sell, assign or transfer to another public agency CITY's interest in any property dedicated or transferred to CITY pursuant to the terms of this Agreement.

Any attempt to assign or transfer any right or interest in this Agreement except in strict compliance with this Section 6, shall be null and void and of no force and effect.

(b) Subject to Terms of Agreement. Following any such assignment or transfer of any of the rights and interests of OWNER under this Agreement, the exercise, use and enjoyment shall continue to be subject to the terms of this Agreement to the same extent as if the assignee or transferee were OWNER

(c) Release of OWNER. Notwithstanding the assignment or transfer of portions or all of the Property or rights or interests under this Agreement, OWNER shall continue to be obligated under this Agreement unless released or partially released by CITY with respect to OWNER's Obligations and the other duties and obligations of OWNER under this Agreement, pursuant to this Section 6.1.(c), which release or partial release shall be provided by CITY upon the full satisfaction by OWNER of the following conditions:

- (i) OWNER is not then in default under this Agreement;

(ii) OWNER has obtained the, consent of CITY to the assignment as provided in Section 6.1.(a); and

(iii) Such assignee or transferee has assumed such duties and obligations as to which OWNER is requesting to be released and such assignee or transferee has provided CITY with security and other assurances equivalent to that which were provided by OWNER assuring CITY that OWNER's Obligations and the other duties and obligations of OWNER under this Agreement for which OWNER is being released will be fully and strictly performed as provided in this Agreement.

7. TERM OF AGREEMENT.

7.1 Stated Term. This Agreement shall become effective on the Effective Date and unless earlier terminated pursuant to the provisions of this Agreement shall continue in effect for (10) years after annexation of the Property into the City. Notwithstanding the foregoing, in the event that the parties determine that a longer period is necessary to achieve the foregoing purposes, the term of the Agreement may be extended an additional five (5) years by the further written agreement of the City Council and La Vista, L.P. in accordance with Section 8.

7.2 Rights and Duties Following Termination or Expiration. Upon the termination or expiration of this Agreement, no party shall have any further right or obligation hereunder except with respect to any obligations to have been performed prior to said termination or which survive such termination pursuant to the Current Development Approvals, Implementation Agreement(s) or with respect to any default in the performance of the provisions of this Agreement which has occurred prior to said termination.

8. AMENDMENT.

8.1 Amendment. Except as otherwise specifically provided in this Agreement, this Agreement may be amended or canceled only by the mutual agreement of the parties in accordance with

Government Code Section 65868 and CITY Development Agreement Ordinance, in a writing executed by the parties and recorded in the official records of the County of Alameda.

8.2 Amendment of Development Plan. Except as otherwise expressly provided, the Project shall proceed in accordance with the Development Plan, conditions of approval (Exhibit E) approved by CITY on _____, which may be amended or modified by the City Council. Additionally, the Development Plan and conditions may be amended or modified in the following manner:

(a) The Planning Director may administratively amend or modify the Development Plan if the Director determines that the requested amendment or modification is substantially consistent with this Agreement.

(b) Except as provided herein, amendment or modification of the Development Plan shall comply with the procedural provisions of the CITY's Land Use Ordinances and Regulations in effect on the date of application for such amendment or modification.

9. PROCESSING OF REQUESTS AND APPLICATION; OTHER GOVERNMENT PERMITS.

9.1 Processing. Upon satisfactory completion by OWNER of all required preliminary actions, meetings, submittal of required information and payment of appropriate processing fees, if any, OWNER and CITY shall promptly commence and diligently proceed to complete all required steps necessary for the implementation of this Agreement and the development by OWNER of the Project in accordance with the Development Approvals, including but not limited to the following: processing and checking of all applications, maps, site plans, development plans, land use plans, grading plans, building plans and specifications and environmental assessments and reports and holding all required public hearings for permits, entitlements or approvals relating to the development of the Project, including, but not limited to, all site plan approvals, final development plans, parcel maps, subdivision maps, subdivision improvement agreements, grading permits, building permits, lot line adjustments, encroachment permits and related

matters as necessary for the completion of the development of all lots and parcels comprising the Project site. In this regard, OWNER, in a timely manner, will provide CITY with all documents, applications, plans and other information necessary for the CITY to carry out its obligations hereunder and will cause OWNER's planners, engineers and all other consultants to submit in a timely manner all required materials and documents therefore. It is the express intent of this Agreement that the parties cooperate and diligently work to implement any zoning or other land use, site plan, subdivision, grading, building or other approvals for development of the Project in accordance with the Development Approvals, and both OWNER and CITY each shall use their best efforts to effectuate the purposes of this Agreement.

9.2 Other Governmental Permits. In addition, OWNER shall apply in a timely manner for such other permits and approvals as may be required from other governmental or quasi-governmental agencies having jurisdiction over the Project as may be required for the development of, or provision of services to, the Project. CITY shall cooperate with OWNER in its endeavors to obtain such permits and approvals. Notwithstanding the foregoing, CITY shall apply for and obtain such permits and approvals as may be required from CalTrans or other governmental or quasi-governmental agencies having jurisdiction over the Project as may be required for the construction of the Tennyson Road extension. OWNER shall cooperate with CITY in its endeavors to obtain such permits and approvals.

10. DEFAULT AND REMEDIES.

10.1 Termination of Agreement for Default of Owner. CITY in its reasonable discretion may terminate this Agreement for any failure of OWNER to perform any material duty or obligation of OWNER under, or to comply in good faith with the material terms of this Agreement (hereinafter referred to as "default"); provided, however, CITY may terminate this Agreement pursuant to this Section only after providing written notice to OWNER of default setting forth the nature of the default and the actions, if any, required by OWNER to cure such default and, where the default can be cured, OWNER has failed to take such actions and cure such default within ninety (90) days after the effective date of such notice or, in the event that such default cannot be cured within such ninety (90), day period but can be cured

within a longer time, has failed to commence the actions necessary to cure such default within such ninety (90) day period and to diligently proceed to complete such actions and cure such default.

10.2 Termination of Agreement for Default of CITY. OWNER in its reasonable discretion may terminate this Agreement by written notice to CITY only after the default by CITY in the performance of a material term of this Agreement and written notice by OWNER thereof to CITY and, where the default can be cured, the failure of CITY to cure such default within ninety (90) days after the effective date for such notice or, in the event that such default cannot be cured within such ninety (90) day period, the failure of CITY to commence to cure such default within such ninety (90) day period and diligently proceed to complete such actions and to cure such default.

10.3 Remedies. In any proceeding relating to any issue arising under this Agreement, the parties may mutually agree to mediation of their dispute. Alternatively, either party may, in addition to any other rights or remedies it may have at law or in equity institute an action to cure, correct or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation or enforce by specific performance the obligations and rights of the parties hereto, after exhaustion of administrative remedies.

11. THIRD PARTY LITIGATION.

11.1 General Plan Litigation.

(a) Limitation. As set forth above, CITY has determined that this Agreement is consistent with the Land Use Regulations (including the General Plan) and meets all of the legal requirements of State law. The parties acknowledge that:

(i) in the future there may be challenges to legality, validity and adequacy of the Land Use Regulations; and

(ii) if successful, such challenges could delay or prevent the performance of this Agreement and the Development of the Property.

In addition to the other provisions of this Agreement, including, without limitation, the provisions of this Section 11, CITY shall have no liability under this Agreement for any failure of CITY to perform under this Agreement or the inability of OWNER to develop the Property as contemplated by the Development Plan or this Agreement as the result of a judicial determination that on the Effective Date, or at any time thereafter, the Land Use Regulations, or portions thereof, are invalid or inadequate or not in compliance with law.

(b) Revision of General Plan. If for any reason the Land Use Regulations or any part thereof are hereafter judicially determined as provided above to be not in compliance with the State or federal Constitutions, laws or regulations, this Agreement shall remain in full force and effect and upon the adoption or amendment of any Land Use Regulations which are necessary in order to comply with State or federal Constitutions, laws or regulations to cure such invalidity or inadequacy, together with any amendments of the Development Plan and the Land Use Regulations which are necessary in order to comply with such new or revised Land Use Regulations, the reference in Section 4 to the General Plan shall thereafter mean and refer to such new or amended General Plan, Development Plan and Land Use Regulations.

(c) Suspension of Obligations. In the event that Development of the Property is enjoined or prevented from proceeding by any judicial order or determination in connection with the determinations regarding the Land Use Regulations referred to above and the subsequent proceedings with respect thereto referred to in paragraph (b) of this Section, the time for performance of the obligations of the parties hereunder shall be extended as provided in Section 14.13.

(d) Option to Terminate. In the event that any such amendments of the General Plan, the Development Plan or Land Use Regulations result in a reduction in the number of units

or the density or intensity, or timing, sequencing or phasing of Development, OWNER may terminate this Agreement by notice in writing to CITY and recorded in the official records of CITY.

(e) Opportunity to Intervene. In the event of a challenge to CITY's General Plan, CITY shall provide notice of such action to OWNER and OWNER may elect to intervene in any such action as a real party in interest. CITY agrees not to oppose such intervention.

12. EFFECT OF AGREEMENT ON TITLE.

12.1 Covenants Run With The Land. Subject to the provisions of Sections 6 and 14:

(i) All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons acquiring any rights or interests in the Property, or any portion thereof, whether by operation of laws or in any manner whatsoever and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns;

(ii) All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law; and

(iii) Each covenant to do or refrain from doing some act on the Property hereunder (A) is for the benefit of and is a burden upon every portion of the Property, (B) runs with such lands and (C) is binding upon each party and each successive owner during its ownership of such properties or any portion thereof, and each person having any interest therein derived in any manner through any owner of such lands, or any portion thereof, and shall benefit each party and its lands hereunder, and each other person succeeding to an interest in such lands.

12.2 No Dedication or Lien. Nothing herein shall be construed as constituting a dedication or transfer of any right or interest in, or as creating a lien with respect to, the title to the Property. Any dedication or transfer of any right or interest in the Property shall be made only in accordance with this Agreement.

13. HOLD HARMLESS

13.1 Hold Harmless; OWNER's Activities. OWNER hereby agrees to, and shall defend, indemnify and hold harmless CITY and its elected and appointed boards, commissions, officers, agents, and employees from any and all claims, costs and liability for any damages personal injury or death, which may arise, directly or indirectly, from OWNER's or OWNER's contractors, subcontractors, agents, or employees' operations under this Agreement, whether such operations be by OWNER or by any of OWNER's contractors or subcontractors or by any one or more persons directly or indirectly employed by or acting as agent for OWNER or any of OWNER's contractors or subcontractors.

13.2 Hold Harmless: Challenge of Agreement. OWNER further agrees to indemnify, hold harmless, pay all costs, including costs of suit and attorneys' fees, and provide a defense for CITY, upon CITY's tender, in any action challenging the validity of this Agreement or relating to any of the Current Development Approvals, including, but not limited to compliance with any requirement of law, approval or action which is a condition precedent to Development of any portion of the Property.

14. MISCELLANEOUS PROVISIONS.

14.1 Effect of Agreement. Once this Development Agreement is effective, the provisions of this Agreement shall bind the Property, and any part thereof. Notwithstanding the foregoing, nothing herein shall modify, limit or affect in any manner the Quarry Entitlements.

14.2 CITY Acceptance of Mitigation. CITY acknowledges and agrees that compliance with the provisions of Exhibit E with respect to local park requirements through the planned dedication of land, the construction of site improvements and the payment of certain funds for the Recreational

Facilities and the dedication of land, the construction of site improvements, the construction of affordable housing units as indicated in Exhibit E and the payment of certain funds for development of the Affordable Housing and the dedication of land and acceptance of use restrictions and the formation of a Geologic Hazard Abatement District and Landscape and Lighting District constitutes full and complete satisfaction of required mitigation of impacts on recreational facilities and parkland, affordable housing, and open space and meets all CITY requirements regarding same.

14.3 Recordation of Agreement. The City Clerk of City shall cause this Agreement to be recorded within ten (10) days after the execution of this Agreement by OWNER and by CITY's City Manager pursuant to the ordinance approving this Agreement in the Official Records of the County of Alameda. Any amendment or cancellation of this Agreement shall be immediately recorded in the Official Records of the County of Alameda.

14.4 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein and no testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

14.5 Severability. If any term, provision, covenant or condition of this Agreement, including but not limited to the Exhibits to this Agreement, shall be determined invalid, void or unenforceable by a final determination by a court of competent jurisdiction, the remainder of, this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. Any final determination that any condition in any Exhibit is invalid, void or unenforceable shall not affect any other condition or portion of any Existing Development Approval which is not also specifically determined invalid, void or unenforceable except to the extent such remaining conditions are rendered impracticable to perform.

14.6 Integration and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California.

14.7 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

14.8 Singular and Plural. As used herein, the singular of any word includes the plural.

14.9 Joint and Several Obligations. If any obligation of OWNER to CITY is the obligation of more than one person, such obligation and any liability with respect thereto shall be joint and several among the obligees.

14.10 Time of Essence. Time is of the essence in:

(a) The performance of the provisions of this Agreement as to which time is an element; and

(b) The resolution of any dispute which may arise concerning the obligations of OWNER and CITY as set forth in this Agreement.

14.11 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

14.12 No Third Party Beneficiaries. The only parties to this Agreement are OWNER and CITY. There are no third party beneficiaries and this Agreement is not intended, and shall not be construed to benefit or be enforceable by any other person whatsoever.

14.13 Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond such party's control, government regulations other than CITY's, court actions (such as restraining orders or injunctions) or other causes beyond such party's control. If any such events shall occur, the term of this Agreement and the time for performance by either party of any of its obligations hereunder shall be extended by the period of time that such events prevented such performance provided that the term of this Agreement shall not be extended under any circumstances for more than five (5) years or for a period which would cause this Agreement or provisions hereof to be void as violating the rule against perpetuities.

14.14 Attorneys' Fees. In any action or undertaking between the parties hereto to enforce the provisions of this Agreement, each of the parties hereto shall bear its own attorneys' fees.

14.15 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

14.16 Notices. All notices required or provided for under this Agreement shall be in writing and delivered in person or sent certified mail, postage prepaid and addressed as follows:

If to CITY:	Jesus Armas, City Manager City of Hayward 777 "B" Street Hayward, CA 94541-5007
With a copy to:	Michael O'Toole, City Attorney City of Hayward 777 "B" Street Hayward, CA 94541-5007
If to OWNER:	James B. Summers, President La Vista L.P. 11555 Dublin Blvd.

Dublin, CA 94588

With a copy to:

Michael Willcoxon, Esq.
11555 Dublin Blvd.
Dublin, CA 94588

Any notice given as required herein shall be deemed given seventy-two (72) hours after deposit in the United States mail or upon receipt. A party may change its address for notices by giving notice in writing to the other party as required herein and thereafter notices shall be addressed and transmitted to the new address.

14.17 Successors and Assigns. Subject to the provisions of Section 6, the terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns.

14.18 Counterparts. This Agreement may be executed by the parties in counterparts which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

IN WITNESS WHEREOF, the parties. hereto have executed this Agreement on the day and year
first set forth above.

OWNER: La Vista L.P., a California limited partnership

By: _____

Its: _____

CITY: CITY OF HAYWARD

By: _____

Its: City Manager

APPROVED AS TO FORM:

By: _____

City Attorney

- Exhibits:
- A Legal Description of La Vista Project Site
 - B List of Development Approvals
 - C List of Current development approvals
 - D Description of Affordable Housing
 - E Conditions of Approval

FINDINGS FOR APPROVAL

**LA VISTA DEVELOPMENT
28816 MISSION BOULEVARD
(General Plan Amendment Application No. PL-2005-0157 GPA;
Zone Change Application No. PL-2005-0158 ZC;
Development Application No. PL-2005-0317 DA)
The DeSilva Group (Applicant)**

Findings for Approval – General Plan Amendment:

- A. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15168, Program Environmental Impact Reports, and Section 15074, Mitigated Negative Declarations, a Mitigated Negative Declaration has been prepared in association with approval of General Plan Amendment Application No. PL-2005-0157, as conditioned, and it has been determined, based on the whole record (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration is complete and final and reflects the City of Hayward's independent judgment and analysis;
- B. That the proposed General Plan Amendment will promote the public health, safety, convenience, and general welfare of the residents of Hayward in that the design and construction of the 179-unit residential development will be done in accordance with sound geotechnical practices under the direction of a California-registered geotechnical engineer and certified engineering geologist, in that the State Office of Mine Reclamation will be required to approve final reclamation of the site associated with closure of the La Vista Quarry, in that a Geologic Hazard Abatement District shall be formed to provide a funding mechanism and schedule for regular maintenance and, if necessary, repair of the slopes above and to the east of the proposed development, and in that the extent and density of development will be guided into a cohesive pattern that minimizes visual impacts and avoids encroachment into natural, undisturbed areas;
- C. That, with required conditions of approval, the proposed General Plan Amendment is in conformance with the City's General Plan policies, Mission-Garin Area Special Design District provisions, as amended, Hillside Design and Urban/Wildland Interface Guidelines and the Zoning Ordinance, as amended, and will result in a development that will be compatible with surrounding land uses and zoning, and will further the City's goal to provide ownership housing opportunities as expressed in the Housing Element of the General Plan;
- D. That the streets and public facilities existing or proposed, including the eastward extension of Tennyson Road, the northerly extension of Alquire Parkway and the addition of a new 1.2 million gallon water tank and related system upgrades at the Garin Reservoir site, are/will be adequate to serve all uses permitted when the property is reclassified;

- E. That the proposed General Plan Amendment will result in a development that will be compatible with surrounding residential land uses and zoning, in that the development would involve a variety of homes of high quality design that will be constructed in an already-disturbed area that will result in insignificant visual impacts and be constructed in compliance with an approved fuel management plan;
- F. That the proposed project is consistent with the General Plan Housing Element's goal of providing housing opportunities for all household income levels in that 72 to 82 housing units for very low- and low-income households will be provided in the City as a result of the project; and
- G. That the dedication of approximately 30 acres for a new community park, the contribution of \$1.5 million towards development of a new community center either within the 30 acre park or in the general vicinity, and the development of the park with playfields, detention basins, etc. equal in value to at least \$2.14 million in an area of the City that lacks adequate recreational opportunities is consistent with the policies contained in the Community Facilities and Amenities section of the General Plan and, in particular, Policy 5, which indicates the City should, "Seek to increase the amount, diversity and quality of parks and recreational facilities and opportunities."

Findings for Approval – Zone Changes:

- i. **Reclassification/Prezoning to Planned Development (PD) and Open Space/Parks and Recreation (OS) Districts**
- H. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15168, Program Environmental Impact Reports, and Section 15074, Mitigated Negative Declarations, a Mitigated Negative Declaration has been prepared in association with approval of Zone Changes Application No. PL-2005-0158, as conditioned, and it has been determined, based on the whole record (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration is complete and final and reflects the City of Hayward's independent judgment and analysis;
- I. The development is in substantial harmony with the surrounding area and conforms to the General Plan, as amended, and applicable City policies in that the design and layout of the development involves a variety of homes of high quality design that will be constructed in an already-disturbed area that will result in insignificant visual impacts, and in that the development will be constructed in compliance with an approved fuel management plan consistent with sound geotechnical practices, will further the City's goal to provide ownership housing opportunities as expressed in the Housing Element of the General Plan and will help further the City's Housing Element policy to provide housing opportunities for all household income levels in

that 72 to 82 rental housing units for very low- and low-income households will be provided in the City as a result of the project.

- J. Streets and utilities, existing or proposed, are adequate to serve the development in that project conditions of approval require that two public roads be constructed to City standards to serve the development, and that upgrades to the Garin Reservoir System, acceptable to the City, be completed, including construction of a new water tank and upgrades to the associated pump station, and also require that the development contribute its fair share to upgrading an undersized sewer interceptor line that serves the general area of the City.
- K. The development creates a residential environment of sustained desirability and stability, that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population and are acceptable to the public authorities having jurisdiction thereon, and the development will have no substantial adverse effect upon surrounding development, in that the project will result in the dedication of approximately 30 acres for a new community park, development of the park with playfields, detention basins, etc. equal in value to at least \$2.14 million in a manner to be found acceptable by the Hayward Area Recreation and Park District and contribution of \$1.5 million towards development of a new community center in an area of the City that lacks adequate recreational opportunities, all to be done under the direct supervision of a registered geotechnical engineer, in accordance with standard geotechnical practices.
- L. Any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards, in that the exceptions requested for reduced minimum lot sizes and front yard setbacks is offset with sidewalks along all street frontages and dedication and development of a new community park adjacent to the development, and a \$1.5 million contribution toward construction of a new community center adjacent to the development or in the general vicinity. The exceptions requested for reduced side yard setbacks and average lot widths is offset with building design and lot configurations for the "Two-pack" lots (nearly 70% of the total), where garages are located adjacent to living areas on the adjacent lot, thereby affording privacy from living areas within the homes. Also, reciprocal "cross-over" easements are proposed across adjacent properties, providing more outdoor open space and driveway area for use by occupants of each of the "Two-pack" homes. The exceptions requested for the reduction of rear yard setback for "uphill" homes along the western side of streets is offset with the provision of a 40-foot deep slope on the adjacent "downhill" property and open space around the project perimeter, thereby providing separation between buildings.

ii. Text Amendments to the Mission-Garin Area Special Design District Provisions

- M. Substantial proof exists that the proposed changes will promote the public health, safety, convenience, and general welfare of the residents of Hayward in that the project will allow development of 179 ownership housing units, where ownership

housing is supported by the Housing Element of the General Plan, in that the design and construction of the development will be done in accordance with sound geotechnical practices under the direction of a California-registered geotechnical engineer and certified engineering geologist, in that the State Office of Mine Reclamation will be required to approve final reclamation of the site associated with closure of the La Vista Quarry, in that a Geologic Hazard Abatement District shall be formed to provide a funding mechanism and schedule for regular maintenance and, if necessary, repair of the slopes above and to the east of the proposed development, and will result in the dedication of approximately 30 acres for a new community park, development of the park with playfields, detention basins, etc. equal in value to at least \$2.14 million in a manner to be found acceptable by the City, following consultation with the Hayward Area Recreation and Park District;

- B. The proposed change is in conformance with the purposes of this Ordinance and all applicable, officially adopted policies and plans in that the proposed project would provide for new recreational amenities in an area of the City that is currently underserved by such facilities and would provide for development of high-quality housing that would be consistent with standard geotechnical and building construction practices. Also, the project would be consistent with the City's General Plan policies, the Mission-Garin Area Special Design District (SD-5) provisions, as amended, and the Hillside Design Guidelines by proposing a development that utilizes darker earth tones, landscaping and a variety of building designs and massing, that does not encroach into undisturbed hillside areas, that would be limited to the area on the site envisioned for development in the Mission-Garin Area Special Design (SD-5) District and would generate relatively minor visual impacts in the context of the hillsides in the area in that the development would be located nearly a half-mile east of Mission Boulevard, yet would not be located higher than the 320 foot elevation level, well below the elevation of development to the south in the vicinity of Garin Avenue.

Also, the proposed request to reduce the number of one-story homes required to be constructed for detached single-family residential projects from 15 to 10 percent would still result in a an acceptable mix of housing units within a development to provide visual variety and opportunities for handicapped and/or elderly persons;

- C. Streets and public facilities existing or proposed are adequate to serve all uses permitted when property is reclassified in that Tennyson Road is proposed to be extended eastward from Mission Boulevard and Alquire Parkway is proposed to be extended north to serve the development, thereby providing two means of ingress/egress to/from the development that would meet City standards, the development will contribute its fair share towards construction of a new sewer interceptor line that runs along Tennyson Road west of I-880 and carries wastewater from the area to the City's wastewater treatment plant and a new 1.2 million gallon water tank and related water system improvements are proposed for the Garin Reservoir site that will serve the development; and

- D. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations in that the proposal would result in a residential environment of sustained desirability and stability that would provide for high-quality ownership housing within close proximity to the South Hayward BART Station, which is more compatible with existing residences and uses along Mission Boulevard than is the existing surface mining operation, and would provide for off-site affordable housing within the City that results in more affordable units.

Findings for Approval – Inclusionary Housing Plan:

- E. The proposed project will result in greater affordable housing opportunities in Hayward than what would normally be required for the project in that apartments affordable to households of very low and low incomes would be developed as a result of the project, which would be more affordable than the units available to moderate income households that would otherwise be required;
- F. The project schedule, as conditioned, will result in a project schedule that will ensure development of at least 27 affordable units by Eden Housing, Inc. at the northeast corner of Saklan Road and North Lane at the same time as development of the proposed project; else, 27 units available to moderate income households that would normally be required shall be provided on the subject property.

Findings for Approval – Development Agreement:

- G. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15168, Program Environmental Impact Reports, and Section 15074, Mitigated Negative Declarations, a Mitigated Negative Declaration has been prepared in association with approval of Development Agreement Application No. PL-2005-0317, as conditioned, and it has been determined, based on the whole record (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration is complete and final and reflects the City of Hayward's independent judgment and analysis;
- H. The proposed development agreement is consistent with the objectives, policies, general land uses and programs specified in the City's General Plan, Mission-Garin Area Special Design District, and the Hillside Design and Urban Wildland/Interface Guidelines in that section 3 of the development agreement stipulates the development must be consistent with such provisions;
- I. The proposed development agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located in that the General Plan, as amended, allows for Limited Medium Density Residential development at 8.7 to 12.0 dwelling units per net acre and the development is proposed at 9.3 dwelling units per net acre;

- J. The proposed development agreement is in conformity with public convenience, general welfare and good land use practice in that it will provide new housing opportunities and new public facilities, including 30 acres for a new community park and substantial contribution toward development of a new community center, while minimizing impacts to the area;
- K. Existing or proposed public facilities have sufficient capacity to accommodate the proposed development in that Tennyson Road is proposed to be extended eastward from Mission Boulevard and Alquire Parkway is proposed to be extended north to serve the development, thereby providing two means of ingress/egress to/from the development, and a new 1.2 million gallon water tank and related system improvement are proposed for the Garin Reservoir site to serve the development;
- L. The public health, safety, and general welfare will be promoted and advanced by the proposed development in that mitigation measures will be required as part of development approvals to ensure significant environmental impacts will be reduced to levels of insignificance, including those associated with dust and air quality, naturally-occurring asbestos and geologic hazards;
- M. The orderly development of property or the preservation of property values will be promoted and advanced by the proposed development in that high-quality single-family housing will be constructed in an area that currently contains an active surface mining operation, resulting in less impacts to, and a more compatible development with, surrounding residences.

Finding for Approval – Abandonment:

- N. The vacation of a portion of the Alquire Parkway right-of-way will be in conformity with the General Plan in that a new public road is proposed that will serve the public in the area, thereby eliminating the need for a public road in the area, and public utility easements will be created to accommodate the existing sewer and water lines that are located in the road area. Additionally, portions of the road pavement to be abandoned will be landscaped, improving the aesthetic value in the neighborhood and minimizing the presence of the new private driveway to be created that will serve the eastern-most properties at the end of Alquire Parkway.

FINDINGS FOR APPROVAL
TENTATIVE TRACT MAP 7620

1. The approval of Tentative Map Tract 7620, as conditioned, will have no significant impact on the environment, cumulative or otherwise. A Mitigated Negative Declaration was prepared per the guidelines of the California Environmental Quality Act (CEQA) for the development of this site.
2. The tentative tract map substantially conforms to the State Subdivision Map Act, the City's Subdivision Regulations, the General Plan, and the City of Hayward Zoning Ordinance.
3. The site is physically suitable for the proposed type of development.
4. The design of the subdivision and the proposed improvements are **not** likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
5. The design of the subdivision and the proposed improvements are **not** likely to cause serious health problems.
6. Existing streets and utilities are adequate to serve the project.
7. None of the findings set forth in Section 64474 of the Subdivision Map Act¹ have been made.

¹ The findings of Section 64474 set forth the grounds for denial of a tentative map which are as follows:

- (a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.
- (b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
- (c) That the site is not physically suitable for the type of development.
- (d) That the site is not physically suitable for the proposed density of development.
- (e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- (f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.
- (g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property with the proposed subdivision.

CONDITIONS OF APPROVAL

LA VISTA DEVELOPMENT 28816 MISSION BOULEVARD

**Vesting Tentative Tract Map Application No. PL-2005-0156 TTM 7620;
General Plan Amendment Application No. PL-2005-0157 GPA;
Zone Change Application No. PL-2005-0158 ZC**

The DeSilva Group (Applicant)

The effective date of these approvals shall be the same as the effective date of the recordation and execution of documents associated with annexation of the property into Hayward.

Planned Development District No. PL-2005-0158 ZC to accommodate construction of 179 single-family homes shall be developed according to these conditions of approval and in substantial conformance with the preliminary development plan labeled in the City files as "Exhibit A." Prior to final inspection, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director.

The Zone Change for the Planned Development District becomes void two years following the effective date of approval of the Preliminary Development Plan by the City Council, unless before that time, a Precise Development Plan is submitted. A one-year extension for the Preliminary Development Plan, approval of which is not guaranteed, may be granted by the City Council, provided the request for such extension is submitted at least 30 days prior to the expiration of the original approval. A request for a second one-year extension, approval of which is not guaranteed, may also be granted by the City Council, provided the request for such second extension is submitted at least 30 days prior to the expiration of the first extension.

This approval is tied to Development Agreement between La Vista L.P., and the City of Hayward (Application No. 2005-0317 DA) and all conditions of approval of that agreement shall also apply to this approval.

The permittee shall assume the defense of, and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.

Any proposals for minor alterations to the proposed site plan and/or design that do not require a variance to the Zoning Ordinance standards must be approved by the Planning Director prior to implementation.

Unless otherwise stated, all necessary easements shall be dedicated, and all improvements shall be designed and installed at no cost to the City of Hayward.

The applicant/developer's engineer shall perform all design work unless otherwise indicated.

All improvements shall be designed and constructed in accordance with the City of Hayward Municipal Code – Chapter 10, Article 3, and Standard Specifications and Details – unless otherwise indicated hereinafter.

In addition to the City of Hayward Standard Specifications and Details, the following requirements and conditions apply, and shall be incorporated in the project plans and specifications as applicable:

PRIOR TO APPROVAL OF THE PRECISE DEVELOPMENT PLAN

1. Prior to submittal of improvement plans and final map(s) for the development, a Precise Development Plan consistent with the approved Preliminary Development Plan shall be submitted for approval by the Planning Director and shall include detailed landscaping and irrigation plans, detailed plans for all site amenities, including decorative paving, decorative electroliers, fencing, sign and entry features, detailed architectural and lighting plans, samples of exterior colors and building materials, and screening of all above-ground utilities, transformers and utility meters. The precise plan shall also reflect the ultimate configuration of the streets and other public improvements, including those associated with the community park/detention basins, additional park area/detention basins or, if applicable, the community center. The Precise Development Plan shall include/address the following:
 - a. A copy of these conditions of approval shall be included on a full-sized sheet(s) in the plan set.
 - b. A color and materials board, consistent with that proposed with the preliminary development plan, shall be submitted to the Planning Director for review and approval. No changes to colors shall be made after construction unless previously approved by the Planning Director.
 - c. Adjustments that can be easily accommodated are to be made to lot lines for certain lots to make them compliant with the City's minimum side yard setback standards, including lots 54, 57, 105, 164 and 165, 171, 172 and 173 and 179.
 - d. Enhanced rear elevations shown in the submitted plans indicated as "Exhibit A" shall be used for units on certain street corners (lots 1, 33, 85, 96, 112, 130, 146 and 175) as well as for units on lots along the western and southern perimeter of the development that would be visible from the proposed park area and from nearby residences (lots 1 through 13, 54 through 56, 164 through 171, and 175 through 179).
 - e. No solid wood fencing is allowed along the slopes between rows of homes, except along the base of the slopes on "downhill lots," nor is solid wood fencing allowed along the rear perimeter of any lots that abut the eastern slopes (lots 56 through 74, 172 and 179), nor along the rear perimeter of lots overlooking the parkland (lots 1 through 13).
 - f. Details and heights of all proposed retaining walls shall be included. All retaining walls shall be constructed of reinforced concrete or bery keystone walls, with a decorative facing, approved by the Planning Director and the City Engineer. No retaining wall shall exceed six feet in height, as measured from finished grade.
 - g. Show details for all fencing and walls proposed throughout the development, including retaining walls proposed along the base of sloped between rows of homes. Masonry walls along perimeter property lines or open space shall be screened with vines and shrubs.

- h. Show details of the proposed two sets of walls, signs and entry columns, the entry monolith and other improvements proposed at the Tennyson Road development entrance, the entry feature at the southern entrance and the landscaping, trails and paths within common open space areas, to be consistent with the architectural style of the project. Such features shall not impede sight distance for drivers in vehicles and shall be reviewed and approved by the Planning Director. The height of the entry columns shall be reduced and one of the two entry walls/columns shall be eliminated, to provide entry features that are more compatible with the rural, open setting of the surrounding area.
- i. No development signage is allowed along Mission Boulevard at Tennyson Road. No other entry features are allowed along Tennyson Road, except those near the entry to the subdivision, in the location as shown on the preliminary development plan.
- j. Pavers and road treatments as shown on the project landscape plans along the Tennyson Road extension within the development shall be required. The specific location, design and materials shall be approved by the Planning Director.
- k. Mitigation Measure I-d: In accordance with MG EIR Mitigation Measure 4.1-3, a detailed lighting plan shall be provided, to be submitted as part of a precise development plan, to incorporate fixtures that shall ensure that lighting off of the project site will be minimized, to prohibit landscape uplighting, with fixtures and plan to be approved by the Planning Director.

Exterior lighting shall be erected and maintained so that adequate lighting is provided in all common areas. The Planning Director shall approve the design and location of lighting fixtures, which shall reflect the architectural style of the building(s). Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of homes within the project.
- l. As required by the Planning Director, a street tree plan and landscape and irrigation plans for front yards plus any side or rear yard slopes shall be submitted for review and approval by the City. Where lots have slopes within the property that are 3:1 or greater, all such slopes should be landscaped and irrigated by the developer. Front yards shall be limited to a maximum 50% Fescue turf.
- m. Landscape plans shall specify site amenities such as, benches, tables, fencing, play equipment and barbecues, for the common open space areas.
- n. Standard driveway flares shall be provided at each unit to prevent vehicles from driving over required landscaping and irrigation. A minimum of 5 feet of landscaping shall be provided between the driveways on 2 pack lots.
- o. Given the reduced setbacks of the homes to the back of sidewalk or curb, the joint trench will need to be located within the street to allow installation of required front yard landscaping.
- p. All exposed drainage systems shall be constructed of materials that blend with the natural environment (e.g., grassy swales or river rock).
- q. Show an exterior hose bibs for each private yard, patio or porch area on the ground floor.
- r. Details of address numbers shall be provided. Address number shall be decorative. Building addresses shall be minimum 4-inch self-illuminated or 6-inch on contrasting background. Address numbers shall be installed so as to be visible from the street.
- s. If grouped mailboxes are proposed, they shall be comprised of high quality locking mailboxes within covered decorative shelters. The locations, design, material and

- color of these structures are to be consistent with the overall project design theme and to be approved by the Planning Director.
- t. All air conditioners and utility connections for air conditioners shall be located such that all external equipment is located within an area that can be screened, and located so as to minimize noise impacts on adjacent properties. Infrastructure for air conditioning systems is required to be installed as a standard feature.
 - u. Garbage and recycling receptacle areas shall be adequately screened from public view with landscaping and/or solid screens, to be approved by the Planning Director, or be provided within garages, in which case shall be clear of the required parking area for two cars.
 - v. All above-ground utility meters, mechanical equipment and water meters shall be enclosed within the buildings or shall be screened from the streets with minimum five-gallon shrubs and/or an architectural screen, to be approved by the Planning Director.
 - w. No mechanical equipment shall be placed on the roof unless it is completely screened from view by the proposed roof structure. Roof apparatus, such as vents, shall be painted to match the roof color. All roof vents shall be shown on roof plans and elevations. Vent piping shall not extend higher than required by Building Code.
 - x. Regarding the architectural details/plans for submittal with the Precise Development Plan:
 - i. The variety of garage door designs/details as shown on architectural plans marked as "Exhibit A," associated with the Preliminary Development Plan, shall be incorporated into final design.
 - ii. The stone veneer trim proposed for Plan 1B shall be used for the trim around the front entry door and garage door.
 - iii. For some of the Plan 2 units in the "two-pack" arrangement, a freestanding wood trellis/arbor over the driveway by the garage shall be incorporated, to provide opportunities for landscaping/vines that would help visually "separate" such units from the adjacent Plan 3 units.
 - iv. For Plan 2A - left elevation, the stone veneer should be continued over the entire wall section in the left-front portion of the home.
 - v. For Plan 2D, the trim around the front entry arch should be stone veneer or some other natural-appearing material, other than stucco, to provide some architectural interest and accentuation of such feature. (Same comment applies to the arch on the front elevation of Plan 3A.)
 - vi. For Plan 2A - enhanced rear elevation, additional wrought iron details should be incorporated into the second floor elevation, outside the master bathroom windows.
 - vii. For Plan 4, rear elevation, consideration should be given to providing additional features and massing (i.e., arch, trellis, etc.) to the support structures for the second floor balcony, to make the balcony appear to be more of an extension of the main structure.
 - y. All plant material must be fire, drought, and deer resistant. All areas within 100 feet of the lots must have permanent irrigated landscaping.
 - z. The non-irrigated slopes need to be pulled farther away from the project entry, the new houses behind lots 1 through 13, along the street behind lots 55 and 56, and in front of the existing houses to the south where the new road extends to the south, or

- shall be irrigated. Where areas are proposed to remain in permanent non-irrigated slopes, a method for the short term and long term maintenance for these slopes must be proposed and approved as part of a Fuel Management Plan.
- aa. *Schinus molle* is not on the list of fire resistant plants and should not be used on this site, to be substituted with another species acceptable to the City Landscape Architect, such as *Pistache chinensis* or California native species such as Bay, Buckeye, Redbud, Pacific Dogwood, California Sycamore, or Vine Maple.
 - bb. Additional landscaping to be consistent with the approved Fuel Management Plan, shall be provided along the rear property lines of those lots located along the west side of Street "A," to provide screening of the rear yard areas of those homes.
 - cc. Pedestrian access from the development shall be provided as shown on the submitted Preliminary Development Plan marked in the City's files as "Exhibit A," with the following enhancements: all paths and trails shall be extended to the community park site from the development, an additional path/trail shall be provided between lots 13 and 55, an additional path/trail shall be provided from the park site to Tennyson Road in the western portion of the tract, to accommodate pedestrians walking up Tennyson Road towards the park. These areas shall include permanent landscaping and entry features.
 - dd. Street trees shall be provided in accordance with the City's standards, which require one 24-inch box tree in the front yard of each lot. Also, 24-inch box trees are required at a minimum average density of at least 20 to 40 feet on center (depending on the species of the trees that are chosen) along all streets within the development and along all portions of Tennyson Road and along the Alquire Parkway connector road leading to the development from the south. Distances between street trees along roads can be varied, but there shall not be any gaps of over 50 feet between trees and the total number of trees shall equal the minimum required.
 - ee. Shrubs shall be planted along disturbed slopes to provide for re-vegetation and naturalization of these areas, to be approved by the City's landscape architect.
 - ff. In accordance with the City's Tree Preservation Ordinance, trees shall be provided to mitigate for any protected trees that are removed, with such trees to be at least equal in value to the trees that are being removed. These mitigation trees are required to be in addition to any required street trees, screening trees, or parking lot trees.
 - gg. A Fuel Management Plan and Homeowners' Educational Addendum is required for the development.
 - hh. In accordance with Fire Code requirements for Planned Unit Developments and with the Mission-Garin Area Special Design District standards, an exception to the 12% maximum road grade standard shall be secured from the Hayward Fire Department and the City Engineer, and a determination made by the Planning Director that steeper grades would minimize significant grading.
 - ii. A phasing plan shall be submitted with the Precise Plan for approval by the Planning Director, which shall include the possible phasing of common area improvements.

PRIOR TO APPROVAL OF, OR RECORDATION OF, THE FINAL MAP(S)

2. The unincorporated territory involved within the boundaries of the vesting tentative map (Tract 7620) shall be annexed into the City of Hayward.

Inclusionary Housing Plan

3. Prior to recordation of the final map or first final map, the applicant shall purchase the approximately 3.53 acre property located at the northeast corner of North Lane and Saklan Road (22958 Saklan) in Hayward, shall demolish existing structures and “clean” the property of environmental contaminants, shall sell such property in fee simple to Eden Housing, Inc., for the price of \$1.00 and shall pay for required off-site improvements for such project.

In accordance with the applicant’s Inclusionary Housing Plan, applicant will assure that 27 rental units, affordable to low and very low income households, are constructed as part of a 72-82 unit rental housing development to be built by Eden Housing, Inc. on that property.

The balance of the units may be reserved for possible future affordable housing obligations for other properties in which the applicant would have an equitable interest, to be used within five years from the effective date of the associated development agreement.

Also, in accordance with applicant’s Inclusionary Housing Plan, no more than 50 building permits shall be issued for applicant’s La Vista development prior to the commencement of site work for the Saklan Road development. Furthermore, building permits for an additional 50 more housing units or the La Vista Development may be issued if it is determined by the City that substantial progress has been made in development of the Eden Housing site. In the event the Saklan Road project does not reach Certificate of Occupancy for 27 rental units affordable to low and very low income households, applicant shall make 27 units of ownership housing in the La Vista Quarry development available for purchase by households of moderate income at a price set forth for such units in accordance with the City’s Inclusionary Housing Ordinance.

IMPROVEMENTS

Improvement plans shall be submitted to the City Engineer for review and approval. Subject plans shall, in addition to the standard improvements, incorporate the following special design requirements:

Recreational Facilities

4. The applicant shall construct improvements, including drainage facilities, detention basins and maintenance roads and recreational amenities, such as playfields, play structures and trails/paths and parking areas within the approximately 30-acre area designated as Parcels B and P on the vesting tentative tract map, with the costs of such improvements to be equal in value to the required park dedication in-lieu fee in effect at the time building permits are issued for the development. Such fees associated with this Planned Development equal approximately \$2.14 million, as of July 1, 2005. Such improvements are to be approved by the City after consultation with the Hayward Area Recreation and Park District and shall be reviewed as part of the Precise Development Plan review process.
5. The future construction of a new Community Center shall meet Fire Department access requirements.

6. The applicant shall contribute \$1.5 million toward construction of a new community center to be located within Parcel B as shown on the vesting tentative tract map, or in the general vicinity. Such contribution shall be in addition to any other obligations.

Streets

7. An Encroachment Permit must be obtained prior to the start of any construction within the City of Hayward right-of-way.
8. An Encroachment Permit must be obtained from the California Department of Transportation (CalTrans) prior to the start of any construction within their right-of-way.
9. Upon any necessary repairs to the facilities under the on-site decorative paved areas, the City shall not be responsible for the replacement cost of the decorative paving. The replacement cost shall be borne by the homeowners association established to maintain the common areas within the subdivision boundary.
10. The site plan shall be reviewed with the Fire Department and Engineering and Transportation Division to ensure that the street and driveway layout is adequate to provide access for emergency, service and utility vehicles, and other commercial trucks. Changes may be necessary including increasing corner radii, driveway widths or intersection alignments.
11. As was originally intended, the temporary traffic signal at the intersection of the La Vista Quarry access road and Mission Boulevard shall be removed when it is no longer needed for Quarry operations, per the original Caltrans' approval of the signal. Removal and modifications to the intersections shall be approved by Caltrans and the City Engineer.
12. The La Vista Quarry access road shall be removed and the area revegetated, to the satisfaction of the City Engineer, CalTrans and the City Landscape architect, prior to acceptance of subdivision improvements.

Tennyson Road

13. The public street (Tennyson Road) shall be extended from Mission Boulevard to the development to provide access for the subdivision. The developer shall obtain, and grant to the City, all necessary right-of-way and slope easements to construct a 36-foot wide street within a 60-foot right-of-way, excluding those portions that cross the State's property. The street shall have a four-foot wide separated sidewalk along one side, extending the full length from Mission Boulevard to the subdivision.
14. The intersection with Mission Boulevard shall be modified to accommodate required traffic lanes, medians and signal equipment. The design for these improvements must be approved by both the City and CalTrans prior to construction.
15. Handicap ramps shall be installed where required by the City Engineer.
16. Decorative pavements shall be capable of supporting a 50,000 lb. gross vehicle weight load. Curb returns shall have a minimum radius of 30 feet at the curb face.

17. The entry features, signs and monuments shall be designed to not impede sight distances.
18. New standard streetlights shall be installed along the street frontage. The design and location shall be approved by the City Engineer. If decorative street lights will be used, the design and spacing must be reviewed and approved by both the Planning Director and City Engineer.
19. The side slopes shall be graded in a naturalistic manner consistent with landform grading techniques, and shall not be uniform engineered slopes, to be approved by the City Engineer.
20. A driveway, or, if necessary, a road approach shall be constructed to provide access to the Durazo (APN: 078C-0650-001-16 and -17), Tavake (APN: 083-0100-001-01) and Ersted (APN: 078C-0461-001-13) properties. The locations and widths shall be approved by the City Engineer. Emergency vehicle access must be provided at all times during construction.

Alquire Parkway

21. The street shall be extended with City standard curb, gutter, sidewalk and conform paving from its existing termination south of the project site to its connection with "A" Street to provide access to the subdivision. Any curb, gutter or sidewalk damaged along the existing frontage shall be removed and replaced.
22. The side slopes shall be graded in a naturalistic manner using landform grading techniques.
23. The eastern-most portions of the existing Alquire Parkway right-of-way shall be abandoned and necessary easements recorded to provide continued access for affected residents and for existing and future underground utilities. Such areas shall be revegetated and landscaped, to the satisfaction of the City Landscape Architect.
24. The connection of the driveway serving the affected residents impacted by the right-of-way abandonment shall be designed as a driveway intersection. The driveway and intersections must be reviewed and approved by the Fire Department.
25. The connection of the new road connecting Alquire Parkway to Bodega Street shall be designed as a driveway intersection. The connector road and intersection must be reviewed and approved by the Fire Department.
26. New standard street lights shall be installed along the street frontage. The design and location shall be approved by the City Engineer.

Interior Public Streets

27. The interior public streets A, B, D and E shall have a 46 foot right-of-way width, 36 feet curb to curb to allow for two travel lanes and parking. Street C shall have a 40 foot right-of-way, 28 feet curb to curb, to allow two travel lanes and parking on the west side. Street design shall utilize standard curb and gutter, and street sections shall be constructed to public street standards. Handicap ramps shall be installed to facilitate access and circulation throughout the development. Roadway slopes currently exceed the allowable 12% grade. Unless redesigned,

these slopes must be approved by the City Engineer, Planning Director and Fire Department and may require additional special conditions relative to fire protection and building construction.

28. Street intersections shall be designed and constructed per City Standard Detail SD-110A.
29. Streetlights shall be installed along all street and cul-de-sac frontages. Pedestrian lighting shall be provided throughout the development, including along the trails and interior walkways. Streetlights and pedestrian lighting shall be owned and maintained by the homeowners association and shall have a decorative design approved by the Planning Director and the City Engineer.

Parking and Driveways

30. The applicant/developer shall provide sufficient parking spaces for the development to meet the requirements of the City of Hayward Municipal Code. Parking stall dimensions and driveways shall meet City requirements as approved by the Planning Director and City Engineer.
31. Driveways shall be constructed per Standard Detail SD-109 and shall be the same width as the garage door. Standard driveway flares shall be provided at each unit to prevent vehicles from driving over required landscaping and irrigation. A minimum of 5 feet of landscaping shall be provided between the driveways on 2 pack lots.
32. ADA compliant parking stalls and loading areas shall be located adjacent to each open space within the development. Handicap ramps and accessible pathways shall be provided throughout the project, per federal and state standards and exceptions.
33. If group mailboxes are used throughout the development, parking spaces shall be provided adjacent to the group mailboxes and shall be designated as 10 minute parking only.

Landscaping and Irrigation

34. Prior to the approval of the improvement plans, a detailed landscaping and irrigation plan for all common areas, front yard areas to fence lines and all rear slope areas shall be prepared by a licensed landscape architect and submitted for review and approval by the City's Landscape Architect. Planting and irrigation plans shall comply with the City's *Water Efficient Landscape Ordinance*.
35. Prior to issuance of the first 50 building permits for homes, the developer shall form a Landscape and Lighting District to fund operation and maintenance of common areas within the development and the community park facilities. Prior to approval of the first final map, the developer shall provide a \$10,000 deposit to the City to cover the costs associated with formation of the District. The exact limits of responsibility for the District will be determined during processing of the Precise Plan for the development.
36. Within all required landscape areas, a complete automatic sprinkler system with an automatic on/off mechanism shall be installed. A hose bib shall be provided within each private yard.

Storm Drainage

37. The on-site storm drain system within the development, excluding that located within the public right-of-way, shall be a private system owned and maintained by the homeowners association or property owners.
38. The Hydrology and Hydraulics Criteria Summary, Alameda County Flood Control and Water Conservation District, latest edition shall be used to determine storm drainage runoff. A detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be reviewed and approved by the Alameda County Flood Control and Water Conservation District and the City Engineer. Development of this site is not to augment runoff to the District flood control facility downstream, Line D. The hydrology study shall substantiate that there will be no net increase in the quantity of runoff from the site versus the flow rate derived from the original design of Line D and any augmented runoff will need to be mitigated on-site.
39. A Storm Water Pollution Prevention Plan (SWPPP) shall be submitted with a design to reduce discharge of pollutants and sediments into the downstream storm drain system. The plan shall meet the approval of the City Engineer.
40. Mitigation Measure VIII-a: Per State regulations, a Notice of Intent (NOI), and Storm Water Pollution Prevention Plan (SWPPP) and Stormwater Quality Protection Plan shall be prepared and submitted to the State for review and approval. These documents shall also be submitted along with the grading permit application for review and approval by the City of Hayward. Grading and construction plans shall incorporate erosion and sedimentation control measures to be implemented during all phases of construction activities. The improvement plans for the project shall incorporate Best Management Practices (BMP's) designed in accordance with applicable provisions of the Alameda County Clean Water Program NPDES permit Section C.3, including the hydraulic sizing criteria, which will ensure that storm water runoff is treated prior to discharge from the site and that runoff rates are such that downstream impacts are reduced to the maximum extent practical.
41. Mitigation Measure VIII-c: The development plans for the site will not substantially alter the drainage pattern of the area. The development's improvement plans will incorporate BMP's, including erosion and sedimentation control measures, that will treat all water prior to discharge and will ensure that the discharge rate from the site is consistent with existing rates.
42. The developer shall provide a copy of the Notice of Intent filed with the State Water Resources Control Board, prior to the issuance of a grading permit for the project site.
43. The project plans shall include storm water measures for the operation and maintenance of the project to be approved by the City Engineer. The project plans shall identify and incorporate Best Management Practices (BMPs) appropriate to the uses conducted onsite to effectively prevent the entry of pollutants into storm water runoff. Roof leaders shall discharge into a landscaped area prior to storm runoff entering a pipe system.

44. The tentative map shows several detention ponds to be used for treatment of storm water runoff. If ponds are utilized, they must incorporate access roads around the ponds to facilitate maintenance and allow access to inlet and outlet facilities.
45. The developer shall prepare a Maintenance Agreement for storm water BMP's constructed as part of this project. The Maintenance Agreement shall be reviewed and approved by the City prior to recordation with the Alameda County Recorder's Office. The Agreement shall be recorded to ensure that the responsibility for maintenance is bound to the property in perpetuity.
46. Mitigation Measure VIII-e: Proposed detention basins and project drainage system shall be designed in accordance with Alameda County Flood Control and Water Conservation District's standards, with such design to be supported via hydraulic calculations from the project engineer, to be reviewed and approved by the ACFCD and the City of Hayward Public Works Department. Any increased flow resulting from the proposed development would be required to be mitigated on-site.
47. The project streets, driveways and parking areas shall be designed to facilitate street sweeping, including the layout of the tree and handicap ramp bulb outs.
48. The project plan measures shall also include erosion control measures to prevent soil, dirt, debris and contaminated materials from entering the storm drain system, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook.
49. The developer is responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop work order.
50. The project shall not block runoff from, or augment runoff to, adjacent properties. The drainage area map developed for the hydrology design shall clearly indicate all the areas tributary to the project area. The developer is required to mitigate augmented runoffs with off-site and/or on-site improvements.
51. All storm drain inlets must be labeled "No Dumping - Drains to Bay" using City approved methods.
52. Storm water inlets shall be installed at the curb face per the City of Hayward Standard Details. The design and location shall be approved by the City Engineer.

Sanitary Sewer System

53. Sanitary sewer service is available subject to standard conditions and fees in effect at the time of application.
54. The development will impact a section of sewer main on Tennyson Road, between the Tennyson Road lift station and I-880, which is currently undersized and has inadequate capacity. A hydraulic analysis must be performed to determine the developer's exact share of the cost to upgrade this line, but this share is currently estimated to be 5%, or \$275,000. The

exact amount must be determined and paid prior to recordation of the first final map for the tract.

55. The developer must extend a sewer main along the Alquire Parkway extension/connector road and the along new Bodega Street extension from the connector road to the Browne property line (APN: 083-0265-002-24), to serve the existing residences along Bodega Street.
56. The on-site sanitary sewer system shall have 8-inch public mains, designed with a manhole at all angle points and ending with a manhole. Each parcel shall have a separate sanitary sewer lateral stubbed to the edge of the street right-of-way. The main design and location shall meet the approval of the City Engineer.

Water System

57. Water service is available from the City and is subject to standard conditions and fees in effect at the time of application.
58. The existing water system in the area is insufficient to provide adequate water service to this development. The developer must construct the necessary improvements, including a water reservoir, water main extensions, and pump station upgrades for the Garin Reservoir water system, to provide adequate service. The developer must obtain all necessary easements and right of ways, at no expense to the City, and dedicate these to the City prior to recordation of the first final map for the tract. The City must have access to water main extensions so access roads will need to be constructed as directed by the City Engineer.
59. All water main pipes crossing a fault shall be designed per City Standard Detail SD-227.
60. Provide a new water main along the Alquire Parkway extension/connector road and along the new Bodega Street extension from the connector road to the property line, to serve the existing residences along Bodega Street.
61. Water mains shall be a looped system to prevent water quality problems. The water main at the end of Court "C" shall be extended and connected to provide a looped system, utilizing easements if necessary.
62. Mortar Lined Welded Steel or Ductile Iron Pipe is required in all easements. Control valves are required in the street prior to easements.
63. The developer must connect the proposed water main in the Tennyson Road extension to the existing main in Mission Boulevard with pressure reducing valves.
64. The developer shall provide calculations showing that the proposed water mains are adequate to supply required fire flows.
65. Fire hydrants shall be provided throughout the development and along Tennyson Road and the Alquire Parkway extension/connector road. The locations shall be approved by the Fire

Department prior to start of construction. Fire hydrant locations shall be identified with blue reflective pavement markers installed in the street adjacent to the fire hydrant. .

- 66. Fire hydrants shall be double steamer type which shall be installed per City standards.
- 67. Fire flow requirements for this development shall be 3,000 gallons per minute at 20 psi. An allowance of up to 50 percent may be granted for fire sprinklers systems installed within each building.

Utilities

- 68. All utility services shall be "underground service" designed and installed in accordance with the Pacific Gas and Electric Company, SBC and SBC Broadband Company regulations. Transformers, and switch gear cabinets, shall be placed underground unless otherwise approved by the Planning Director and the City Engineer. Underground utility plans must be submitted for City approval prior to installation.
- 69. The developer shall submit conceptual undergrounding plans with the Precise Plan submittal. Given the reduced setbacks of the homes to the back of sidewalk or curb, the joint trench will need to be located within the street to allow installation of required frontyard landscaping.
- 70. The developer shall provide and install the appropriate facilities, conduit, junction boxes, etc., to allow for installation of a fiber optic network within the subdivision.
- 71. All proposed surface-mounted hardware (fire hydrants, electroliers, etc.) along the proposed streets shall be located outside of the sidewalk within the proposed Public Utility Easement in accordance with the requirements of the City Engineer or, where applicable, the Fire Chief.
- 72. All utilities shall be designed in accordance with the requirements of the City of Hayward and applicable public agency standards.
- 73. Mitigation Measure VII-g: Recommendations of the project geotechnical engineer related to street and utility lines shall be incorporated into the project design. Such recommendations indicate that utility lines are to be placed east of the Hayward earthquake fault trace for the Alquire Parkway extension and that special design features, such as flexible pipes, shutoff valves on either side of the fault trace and use of an outer conduit, be incorporated where utility lines would cross the fault trace for the Tennyson Road extension. The design of water main pipes crossing the Hayward fault trace shall be consistent with the City's Standard Detail 227.

Fire Protection

- 74. Prior to issuance of a building permit for construction of a Community Center, building construction, fire protection access and available water supply shall be reviewed and approved by the Fire Department.

75. A Fuel Management Plan and Homeowners' Educational Addendum is required for the development. The Fuel Management Plan shall be prepared by a qualified consultant. A copy of the fuel management report shall be submitted to the Fire Department for review and approval, with provisions of the Fuel Management Plan to be integrated into project design.
76. The design and construction of the proposed development shall be in accordance with the City's Urban/Wildland Interface Guidelines, to include, but not be limited to
- a. Class A roofing materials;
 - b. Exterior non-combustible siding materials;
 - c. Spark arrestors on chimney caps;
 - d. Double paned windows;
 - e. Boxed eave construction;
 - f. Wire mesh vent screens;
 - g. Non-combustible perimeter fencing (unless approved by the Fire Department);
 - h. Heavy timber or non-combustible construction materials for exterior decking and balconies (that are attached to the structure), accessory structures such as gazebos, atriums, walkways for decks, etc. If combustible construction materials are proposed for any of the proposed mentioned accessory structures, automatic fire sprinklers shall be provided and installed where applicable.
77. Each single-family dwelling shall be equipped with an automatic fire sprinkler system, designed and installed per NFPA 13-D(Modified) Standards. The fire sprinkler protection shall be supplied from the domestic water line and independently controlled. Fire sprinkler protection shall be provided within all living areas, including fire sprinkler heads within attic and garage space, under crawl spaces and/or any attached decking or balconies constructed with combustible construction materials, with foyers and porches and other areas where access or storage concerns exist.
78. Each single-family dwelling unit shall have an interior alarm signaling device which will activate upon any sprinkler head activation.
79. Each single-family dwelling unit shall have an exterior alarm bell installed in on the fire sprinkler system riser in a location approved by the Fire Department.
80. Each fire sprinkler system shall be equipped with a spare sprinkler head box located at the riser.
81. The fire line service (connected to the domestic water line) shall be installed and arranged per NFPA 13-D Standards. A minimum 1 inch meter shall be required to support the domestic water fixtures and the fire sprinkler system. The control valve for the fire sprinkler system shall be locked with a chain and break-away type of lock if it is exposed (above grade)
82. Residential smoke detectors shall be installed per the California Building Code.

83. Addressing for each single family dwelling shall be assigned and approved by the Fire Department. Numbers shall be a minimum of 4 inches in height (self-illuminated) and be visible from the street.

Grading and Retaining Walls

84. A Geologic Hazard Abatement District (GHAD) shall be formed prior to issuance of the first 50 building permits for residential units. The developer shall either prepare all necessary reports, maps, and supporting documents, which will be reviewed by the City's consultants, or the City will have the necessary reports, maps and supporting documents prepared to form the district. In either case, the developer shall post a deposit with the City prior to the recordation of the first final map to cover the City's costs for formation of the district. The exact extent of the responsibilities of the district shall be determined during the preparation of the Precise Development Plan for the development; however, the majority of the land within the large eastern slope located within Parcel A as shown on the vesting tentative tract map shall be included within the GHAD.
85. All retaining walls shall be constructed with decorative reinforced concrete, or shall be keystone walls. The exposed face of any retaining wall shall not exceed 6 feet from ground to top of wall.
86. Retaining walls shall be setback a minimum of five feet from the back of sidewalk to allow for required landscaping. If trees are to be planted between the walls and the sidewalk, the setback shall be increased to provide sufficient room for the trees.
87. Footings for the retaining walls along the public streets shall be within the parcels owned by the HOA. Drainage shall discharge to the public streets and not onto the private lots.
88. The proposed retaining wall along the Alquire Parkway extension, adjacent to the Moita property, appears to have an exposed face greater than six feet. The grading in the area shall be revised, or an alternative type of retaining wall, or method of retaining this slope shall be proposed. The proposed solution must be approved by both the Planning Director and the City Engineer.

Dedications, Easements and Deed Restrictions

89. The proposed approximately 15.1-acre community park/detention basins site, shown as Parcel P on the vesting tentative tract map and the approximately 14.6-acre site shown as Parcel B on the vesting tentative tract map for development of a new community center or development of additional parkland/detention basins, shall be dedicated to the City.
90. The proposed reclaimed slope to the east located between the development and Garin Regional Park and contained within Parcel A as shown on the vesting tentative tract map, shall not be developed and shall remain as open space in perpetuity. Such development restrictions shall not apply to those improvements approved with this Planned Development.
91. The final map shall reflect:

- a. Six-foot-wide public utility easements (PUE) along the edge of the public/private streets where necessary as determined by the City Engineer.
- b. Dedication of all right-of-way and easements for the new water main extension, including access roads.
- c. Dedication of the right-of-way and easements for the extension of Tennyson Road.
- d. Dedication of right-of-way and easements for the realignment and extension of Alquire Parkway to its connection with "A" Street within the development.
- e. Dedication of right-of-way and easements for the new Bodega Street road connection/extension between Alquire Parkway and Bodega Street at the property line.
- f. Dedication of access roads to the Tavake and Ersted parcels if within the boundaries of the development.
- g. Abandonment of the Alquire Parkway right-of-way under the existing roadway termination. The necessary utility easements shall be shown for the utilities which will remain in place.
- h. If drainage from the "two-pack" lots crosses property lines, the necessary drainage easements shall be provided.

Subdivision Agreement

92. Execute a subdivision agreement and post bonds with the City that shall secure the construction of the public improvements per Section 10-3.332, Security for Installation of Improvements, of the Municipal Code. Insurance shall be provided per the terms of the subdivision agreement.

PRIOR TO ISSUANCE OF GRADING PERMITS

93. Mitigation Measure XI-a: In accordance with Mission-Garin Annexation Project Program Environmental Impact Report (MG EIR) Mitigation Measure 4.9-1, a Construction Noise Management Plan shall be prepared and implemented. Such plan must be approved by the Hayward City Engineer prior to issuance of grading permits and shall contain, at minimum, a listing of hours of construction operations (which shall be in accordance with the City's construction hours), use of mufflers on construction equipment, limitation of on-site speed limits, identification of haul routes to minimize travel through residential areas and identification of noise monitors. Specific noise management measures shall be included in appropriate contractor specifications.
94. Mitigation Measure III-b: Prior to the start of any construction or grading activity, including hauling of material to the project site, an asbestos dust mitigation plan approved by the Bay Area Air Quality Management District (BAAQMD) shall be implemented throughout the duration of construction or grading activity. In accordance with the State's "Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations" (CCR Title 17, Division 3, Chapter 1, Subchapter 7.5, Sections 93105 et seq.), the dust mitigation plan must specify dust mitigation practices which are sufficient to ensure that no equipment or operation emits dust that is visible crossing the property line, and must include one or more provisions addressing each of the following topics:
 - a. Track-out prevention and control measures.
 - b. Keeping active storage piles adequately wetted or covered with tarps.

- c. Control for disturbed surface areas and storage piles that will remain inactive for more than seven (7) days
 - d. Control for traffic traveling on project site unpaved roads, parking lots and staging areas.
 - e. Control for earth moving activities.
 - f. Control for off-site transport.
 - g. Post construction stabilization of disturbed areas.
 - h. Air-monitoring for asbestos (if required by the BAAQMD's Air Pollution Control Officer).
 - i. Frequency of reporting.
95. Mitigation Measure IV-a: In accordance with Mitigation Measures 4.3-5 through 4.3-6 of the Mission-Garin Annexation EIR, prior to the start of grading or construction, the U.S. Fish and Wildlife Service (USFWS) shall confirm all habitat assessments conducted by Wetland Research Associates for California red-legged frog and Alameda whipsnake. If California red-legged frogs or Alameda whipsnakes and/or their occupied habitats are determined to be present based on results of habitat assessments or protocol-level surveys, then a project specific California red-legged frog and/or Alameda whipsnake mitigation plan should be developed, approved by the USFWS and CDFG prior to development, and implemented. In accordance with Mitigation Measures 4.3-7 through 4.3-8 of the Mission-Garin Annexation EIR, prior to the start of grading or construction, surveys utilizing protocols acceptable to the resource agencies, including burrowing owl survey protocol and protocol for Golden Eagle surveys established by the California Department of Fish and Game (CDFG), shall be conducted. If such surveys reveal the presence of nesting Golden Eagles within 0.25 mile and in direct line-of-sight distance from project activity, presence of Western burrowing owls within 250 feet, presence of loggerhead shrikes within 200 feet or presence of any other special-status raptors within 300 feet of project activity, construction activity within the above-specified buffer zones shall be completed before the nesting season or be postponed until after the nesting season (March through the end of August). The limit related to presence of Golden Eagles shall be applicable during the entire tenure eagles are actively nesting within the buffer zone, not just during the typical breeding season. Also, given suitable on-site habitat exists for loggerhead shrike and a nesting pair of red-tailed hawks was observed on site, further raptor and shrike and Golden Eagle surveys following survey protocols established by resource agencies shall be conducted during the nesting season immediately preceding start of grading or construction, to confirm no active raptor nests exist that could be impacted by construction activities.
96. Mitigation Measure IV-c: Prior to the issuance of permits for grading or construction for portions of the proposed Tennyson Road extension that involve areas where potential wetlands have been identified, formal jurisdictional wetland delineation/verification shall be secured from the US Army Corps of Engineers. If such delineation indicates a wetland exists which would be unavoidable and impacted by the proposed Tennyson Road extension or any other portion of the project, a permit/approval from the Corps shall be obtained and a wetland mitigation plan utilizing the standard minimum replacement ratio of 1:1 shall be developed and implemented prior to the start of grading and construction. Such mitigation plan shall be approved by the US Army Corps of Engineers, the California Department of Fish and Game and the California Regional Water Quality Control Board.

97. Mitigation Measure VI-aii: As recommended by the City's geotechnical peer-reviewer, prior to issuance of construction permits, the project geotechnical consultant shall review the final construction plans to ensure that site grading, fault and slope setbacks, foundation designs, subdrainage, etc. are in accordance with the project consultant's recommendations, and provide a plan review letter to the City. Also, the project certified engineering geologist and geotechnical engineer shall be on site during grading, excavations, keyways, cuts, etc. to verify that actual geologic conditions, fault locations and special foundation zones are as anticipated and that appropriate supplemental recommendation be provided, as necessary. The results of such inspections, testing, and/or modifications shall be documented in an "as-built" letter/report prepared by the project engineering geologist/geotechnical engineer and submitted to the City before final approval of permits is granted.
98. Mitigation Measure VII-b(2): In accordance with Mitigation Measure 4.6-1(a) of the MG EIR, prior to start of project grading, project developers shall contact the Alameda County Environmental Health Department, Bay Area Air Quality Management District, State Department of Toxic Substances Control and the Hazardous Materials Division of the Hayward Fire Department, for required site clearances, necessary permit and facility closure with regard to demolition and removal of hazardous material from the site. All work shall be performed by licensed contractors in accordance with state and federal OSHA standards. Worker safety plans shall be included for all demolition plans. Additionally, a Phase I Preliminary Site Assessment (PSA) shall be conducted to assess conditions and activities at the site in association with a surface mining operation that could represent the potential presence of hazardous materials. Also, if justified by the PSA, additional studies, including possibly a Phase II soil and groundwater quality investigation shall be conducted, with remedial measures identified in such investigation to be implemented in accordance with standard practices.
99. Prior to the issuance of a grading permit, the developer shall provide a tree preservation bond, surety or deposit, equal in value to the trees to be preserved on the site that are within 50 feet of any grading or construction. The bond, surety or deposit shall be returned when the tract is accepted if the trees are found to be in a healthy, thriving and undamaged condition, as determined by the City's Arborist.
100. Trees shall be preserved in accordance with the Tree Preservation Ordinance. Prior to the issuance of a grading or building permit, all trees to be preserved or removed shall be indicated on the grading, site and landscape plans, and trees to remain in place shall be noted and provided with tree protection measures in compliance with City codes and per tree preservation guidelines, including installation of tree protection fencing prior to the start of grading, as recommended by the project consulting arborist, Ed Brennan of HortScience, Inc. A tree removal permit is required prior to the removal of any tree. Replacement trees shall be required for any trees removed, as determined by the City Landscape Architect.

PRIOR TO ISSUANCE OF BUILDING PERMITS

101. The La Vista Quarry shall cease operations no later than substantial completion of rough grading, and no further surface mining/batch plant activity shall occur on the site. Reclamation in accordance with the approved reclamation plan and as approved by the

Surface Mining and Reclamation Act (SMARA) lead agency and the State Office of Mine Reclamation shall be completed prior to issuance of building permits for the proposed homes.

102. Mitigation Measure VI-ai: No habitable structures, including a possible community center, shall be built closer than 50 feet of the active Hayward fault trace and concentrated fault zone, as indicated on the submitted plans. Additionally, special foundation designs shall be incorporated into homes proposed to be built within the identified special foundation zone at the southeast corner of the proposed development. The design of such foundations and location of homes and possible community center shall be in accordance with the recommendations of the project geotechnical consultant, to be confirmed via plan review and "as-built" letters from the project geotechnical consultant, to be submitted prior to issuance of building permits and prior to project finalization, respectively.
103. Prior to the approval of improvement plans or issuance of the first building permit, detailed landscaping and irrigation plans for all common areas shall be prepared by a licensed landscape architect and submitted for review and approval by the City. Because of hillside issues and screening requirements, landscape and irrigation plans will be required for each individual unit. Landscaping and irrigation plans shall comply with the City's Water Efficient Landscape Ordinance.

PRIOR TO CONSTRUCTION WITH COMBUSTIBLE MATERIALS

104. Required water system improvements shall be completed and operational prior to the start of combustible construction to the satisfaction of the Fire Chief.
105. A minimum 24-foot-wide all-weather access road, engineered for 50,000 pounds gross vehicle weight, shall be maintained for emergency vehicle access.
106. Prior to start of construction involving combustible materials, or as required by the Hayward Fire Department, an additional water tank equal in size to the existing water tank, shall be constructed at the Garin Reservoir Site to the south of the project, and improved with a water system acceptable to the Hayward Fire and Public Works Departments that would bring adequate water supply and pressure to the project site. The construction of the required new water tank may be delayed until completion of tract improvements, if it can be demonstrated to the satisfaction of the City Fire Chief and Public Works Director that connection to the existing water tank at the Garin Reservoir site would be adequate to provide for sufficient fire-fighting capabilities.

Also, prior to the start of construction involving combustible materials, roadways acceptable to the Hayward Fire Department shall be constructed, to provide emergency vehicle access to the project site. Also, a fuel management plan, acceptable to the Hayward Fire Department, shall be implemented throughout construction and incorporated into the design of homes and structures. (MG EIR Mitigation Measure VII-h)

107. Mitigation Measure I-c: In accordance with Mitigation Measure 4.1-1 of the Mission-Garin Annexation Program Project Environmental Impact Report (MG EIR), the additional water tank will be required to be painted neutral, earth-tone colors to blend in with the natural

environment and screened with trees and shrubs, in accordance with the City's Hillside Design Guidelines.

DURING CONSTRUCTION

108. Mitigation Measure III-c: In accordance with MG EIR Mitigation Measure 4.2-1, grading activities shall incorporate standard dust control measures, to include, but not be limited to frequent watering of the site, use of soil stabilizers, hydroseeding of graded areas and other measures that comply with Bay Area Air Quality Management District recommendations for dust control. Project construction grading plans shall state such measures on the plans, to be approved by the Hayward Public Works Department staff.
109. Mitigation Measure I-c: Any tree removals shall be replaced with new trees equal in size and species or value, in accordance with the City's Tree Preservation Ordinance, to be approved by the City Landscape Architect.
110. Mitigation Measure IV-e: In accordance with Hayward's Tree Preservation Ordinance, any "protected" trees as defined by the City's Tree Preservation Ordinance that are to be removed as a result of the project shall be replaced with like-size, like-kind trees or trees equal in value to them, as determined by the City's Landscape Architect.
111. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Planning Director or City Engineer:
- a. Grading and construction activities shall be limited to the hours 7:00 AM to 6:00 PM on weekdays and Saturdays; there shall be no grading or construction activities on Sundays or holidays;
 - b. Grading and construction equipment shall be properly muffled;
 - c. Unnecessary idling of grading and construction equipment is prohibited;
 - d. Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied residential housing units;
 - e. Applicant/developer shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise. Letters shall be mailed to surrounding property owners and residents (within 200 feet of the project boundary) with this information.
 - f. The developer shall post the property with signs that shall indicate the names and phone number of individuals who may be contacted, including those of staff at the Bay Area Air Quality Management District, when occupants of adjacent residences find that construction is creating excessive dust or odors, or is otherwise objectionable. Letters shall also be mailed to surrounding property owners and residents with this information prior to commencement of construction.
 - g. The developer shall participate in the City's recycling program during construction;
 - h. Daily clean-up of trash and debris shall occur on Alquire Parkway and Tennyson Road extension and other neighborhood streets utilized by construction equipment or vehicles making deliveries.
 - i. The site shall be watered twice daily during site grading and earth removal work, or at other times as may be needed to control dust emissions;

- j. All grading and earth removal work shall follow remediation plan requirements, if soil contamination is found to exist on the site;
 - k. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
 - l. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
 - m. Apply (non-toxic) soil stabilizers or hydroseed to inactive construction areas (previously graded areas inactive for 10-days or more);
 - n. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).
 - o. Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution;
 - p. Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work;
 - q. Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping;
 - r. No site grading shall occur during the rainy season, between October 15 and April 15, unless approved erosion control measures are in place.
 - s. Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season; 2) site dewatering activities; or 3) street washing activities; and 4) saw cutting asphalt or concrete, or in order to retain any debris or dirt flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash;
 - t. Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the project site that have the potential for being discharged to the storm drain system through being windblown or in the event of a material spill;
 - u. Never clean machinery, tools, brushes, etc., or rinse containers into a street, gutter, storm drain or stream. See "*Building Maintenance/Remodeling*" flyer for more information;
 - v. Ensure that concrete/gunite supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or drains; and
 - w. The applicant/developer shall immediately report any soil or water contamination noticed during construction to the City Fire Department Hazardous Materials Division, the Alameda County Department of Health and the Regional Water Quality Control Board.
112. A representative of the soils engineer shall be on the site during grading operations and shall perform such testing as deemed necessary by the City Engineer. The representative of the soils engineer shall observe grading operations with recommended corrective measures given to the contractor and the City Engineer.

113. The minimum soils sampling and testing frequency shall conform to Chapter 8 of the Caltrans Construction Manual. The subdivider shall require the soils engineer to daily submit all testing and sampling and reports to the City Engineer.
114. The developer shall be responsible to adhere to all aspects of the Storm Water Pollution Prevention Plan (SWPPP) as approved per conditions of approval above.
115. Mitigation Measure VI-b: All exposed areas within the proposed project limits of grading are to be planted with vegetation, to the satisfaction of the City's Landscape Architect or, if temporary stockpiles of material are created on-site, covered with material to prevent material from being washed away.
116. Construction Administration services shall be provided by the project landscape architect. Services to include:
 - a. Observation of irrigation system before burying pipes;
 - b. Observation of plant material upon delivery to the site;
 - c. Observation of layout and placement of plant material upon delivery to the site;
 - d. Observation for maintenance period commencement; and
 - e. Observation for final acceptance.
117. Mitigation Measure VII-b (1): No asbestos-containing material shall be placed within 10 feet of the finished grade surface within the proposed development, including all residential lots, streets and roads, outdoor open space areas and trails within and immediately adjacent to the development, and in the proposed community center and park areas and roads leading to the development (not intended to apply to reclaimed eastern hillside above development). Additionally, material to be used for the upper area "cap" shall be tested in accordance with a State-approved testing method, such as the Air Resources Board's Test Method 435, to confirm such material does not contain more than 0.25 percent asbestos material.

PRIOR TO CONNECTION OF UTILITIES AND ISSUANCE OF CERTIFICATES OF OCCUPANCY

118. The final map shall be filed and approved by the City and recorded in the County Records Office prior to the issuance of a Certificate of Occupancy of any unit.
119. Prior to project completion or occupancy of any residential unit, the existing La Vista Quarry access road shall be removed and revegetated to the satisfaction of the City Landscape Architect and the existing traffic signal at Mission Boulevard serving the quarry access road shall be removed at the owner's expense, to the satisfaction of the City Engineer.
120. The developer shall pay all required fees, including those indicated below, with the amount of such fees to be in accordance with the fee schedule in effect at the time of issuance of the building permits;
 - a. Supplemental Building Construction and Improvement Tax;
 - b. Building Construction and Improvement Tax;
 - c. School Impact Fee (payable upon issuance of building permits); and
 - d. Water facilities Fee (payable upon issuance of building permits).

- e. Sewer Connection Fee for each dwelling unit at the rate in effect when the utility service permit for the dwelling unit is issued.
- f. Park dedication in-lieu fees for each dwelling unit shall be calculated at the rate in effect when the building permit for unit is issued, to be applied to improvements associated with the development of the community park.

121. Any damaged curb, gutter and/or sidewalk along the Tennyson Road and Alquire Parkway property frontages shall be repaired or replaced to the satisfaction of the City Engineer.
122. All common area landscaping, irrigation and other required improvements in the current phase shall be installed according to the approved plans.
123. The on-site street light electroliers shall be in operating condition as approved by the Planning Director and the City Engineer.

PRIOR TO CITY APPROVAL OF THE TRACT IMPROVEMENTS AS BEING COMPLETED

124. All tract improvements, including the complete installation of all improvements relative to streets, fencing, sanitary sewer, storm drainage, water system, underground utilities, etc., shall be completed and attested to by the City Engineer before approval of occupancy of any unit. Where facilities of other agencies are involved, such installation shall be verified as having been completed and accepted by those agencies.
125. The developer shall submit a final statement of water main extension costs and notarized bill of sale to the Utilities Administration prior to application for water service.
126. All common area landscaping, irrigation and other required improvements shall be installed prior to acceptance of tract improvements, or occupancy of 80% of the dwelling units, whichever first occurs. All individual lot landscaping shall be installed prior to occupancy of each unit and prior to the final acceptance of tract improvements.
127. An AC overlay along Alquire Parkway may be required by the City Engineer, if it is determined that it is necessary due to deterioration resulting from heavy traffic during the construction of the La Vista development. The developer proposes not to use Alquire Parkway for access during project development.
128. The improvements associated with the Pacific Gas and Electric Company, EBMUD, and SBC shall be installed to the satisfaction of the respective companies.
129. Landscape improvements and street trees shall be installed according to the approved plans and a Certificate of Substantial Completion, and an Irrigation Schedule shall be submitted prior to the issuance of a Certificate of Occupancy for each unit.
130. The subdivider shall submit an "as built" plan indicating the following:

- a. All the underground facilities, sanitary sewer mains and laterals, water services (including meter locations), Pacific Gas and Electric Company, EBMUD, SBC and Comcast, etc; and
- b. All the site improvements, except landscaping species, buildings and appurtenant structures.

Homeowners Association

130. Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever first occurs, a homeowners' association shall be created to maintain the common area landscaping and open space amenities as depicted on the approved vesting tentative tract map. The exact limits of responsibility for the Association will be determined during processing of the Precise Development Plan for the development.

131. Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever first occurs, Covenants, Conditions and Restrictions (CC&R's) shall be prepared for the project which shall be reviewed and approved by the Planning Director and City Attorney that shall include the following provisions:

- a. Each owner shall automatically become a member of the association and shall be subject to a proportionate share of maintenance expenses.
- b. A reserve fund shall be maintained to cover the costs of improvements and landscaping to be maintained by the Association.
- c. The association shall be managed and maintained by a professional property management company.
- d. The homeowners' association shall maintain the common area irrigation system and maintain the common area landscaping in a healthy, weed-free condition at all times. The homeowner's association representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within 14 days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Hayward Municipal Code.
- e. Individual property owners are responsible for properly maintaining the front yard landscaping, slope landscaping, and street trees associated with his/her property in a healthy, weed-free condition at all times, with irrigation systems to also be adequately maintained, and to replace any dead or dying plant material (over 30% of the plant dead) within 15 days of first notification. Slope landscaping includes that located in the rear portions of lots 14 through 32, 74 through 84, 113 through 129, 147 through 163 and 172 through 174. The homeowner's association representative shall inspect such areas on a monthly basis. The association maintenance representative shall have the right to enter such areas and charge related maintenance expenses to the individual homeowner, if the homeowner does not adequately maintain such areas within 14 days of written notification to do so.
- f. A provision that if the homeowners' association fails to maintain the landscaping and irrigation in all common areas for which it is responsible so that owners, their families, tenants, or adjacent owners will be impacted in the enjoyment, use or property value of the project, the City shall have the right to enter upon the project and to commence and complete such work as is necessary to maintain the common areas and private streets,

- after reasonable notice, and lien the properties for their proportionate share of the costs, in accordance with Section 10-3.385 of the Hayward Subdivision Ordinance.
- g. Views towards the bays shall be preserved by restricting the height of plant materials in the side and rear yards, with the exception of the required street trees, to no more than five feet above the highest grade. Solid hedges or fences that do not allow neighboring views through to the Bay shall not be allowed within the side or rear yards.
 - h. A requirement that the building exteriors and fences shall be maintained free of graffiti. The owner's representative shall inspect the premises on a weekly basis and any graffiti shall be removed within 72 hours of inspection or within 72 hours of notification by the City.
 - i. A tree removal permit is required prior to the removal of any protected tree, in accordance with the City's Tree Preservation Ordinance.
 - j. The garage of each unit shall be maintained for off-street parking of two vehicles and shall not be converted to living or storage areas. An automatic garage door opening mechanism shall be provided for all garage doors.
 - k. No hot tubs, spas or swimming pools area allowed, unless adequately screened and located in rear yards at least five feet from any building and at least three feet (five feet for pools) from any property line or easements established for the benefit of adjacent properties.
 - l. Individual homeowners shall maintain in good repair the exterior elevations of their dwelling. The CC&Rs shall include provisions as to a reasonable time period that a unit shall be repainted, the limitations of work (modifications) allowed on the exterior of the building, the formation of a design review committee and its power to review changes proposed on a building exterior and its color scheme, and the right of the homeowners association to have necessary work done and to place a lien upon the property if maintenance and repair of the unit is not executed within a specified time frame. The premises shall be kept clean and free of debris at all times. Color change selections shall be compatible with the existing setting.
 - m. Utility meters, when not enclosed in a cabinet, shall be screened by either plant materials or decorative screen, allowing sufficient access for reading.
 - n. Any transformer shall be located underground and shall be located outside any front or side street yard.
 - o. Any future major modification to the approved site plan shall require review and approval by the Planning Commission.
 - p. The CC&Rs shall specify the outdoor collection locations of trash and recycle containers. In addition, trash and recycle containers shall not be moved to the collection location more than 24 hours prior to collection and shall be removed within 24 hours after collection.
 - q. Upon any necessary repairs to the facilities under the on-site decorative paved areas, the City shall not be responsible for the replacement cost of the decorative paving. The replacement cost shall be borne by the homeowners association established to maintain the common areas within the subdivision boundary.
 - r. Streetlights and pedestrian lighting shall be owned and maintained by the homeowners association and shall have a decorative design approved by the Planning Director and the City Engineer.



CITY OF HAYWARD MITIGATED NEGATIVE DECLARATION

Notice is hereby given that the City of Hayward finds that the following proposed project could not have a significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended.

I. PROJECT DESCRIPTION:

General Plan Amendment No. PL-2005-0157; Zone Change No. PL-2005-0158 & Vesting Tentative Tract Map 7620/PL-2005-0156 – The DeSilva Group (Applicant) / Dumbarton Quarry Associates, The DeSilva Group, Howard M. Settle, Maxine F. Theobald, Andrew E. Garin and Richard S. & Annette P. Warren (Property Owners) - Request to subdivide 162 acres to develop 179 single-family lots and a neighborhood park and community center.

The Project is located at 28806 and 28816 Mission Boulevard (La Vista Quarry) in unincorporated Alameda County, located east of Mission Boulevard (State Highway 238) and west of Garin Regional Park.

The 162-acre site is proposed for subdivision (Tract 7620) for development of 179 single-family residential lots and related streets on 29.4 acres, a 16-acre neighborhood park with stormwater detention basins, a community center or additional park area on 14.6 acres and open space and trails on the remaining 102 acres (see attached Exhibit A). The project developer will be required to install an additional water tank at the Garin Reservoir site, located south of the project site off Garin Avenue. The project would also entail construction of an eastward extension of Tennyson Road from Mission Boulevard to the development, as well as a new connector road leading from the development to Alquire Parkway.

The project also entails 1) amendments to the City of Hayward's General Plan Land Use designations to *Limited Medium Density Residential* (8.7 to 12.0 dwelling units per net acre) for the residential portion of the site, to *Parks and Recreation* for the park and community center sites, with the remainder of the site proposed to remain *Limited Open Space* (see attached Exhibit B) and 2) amendments to zoning/prezoning designations, to a *Planned Development (PD) District* for the residential area of the property and eastern hillside and to *Open Space/Parks and Recreation (OS)* for the park/community center areas, with the remainder of the site to remain as *Agriculture (AB10A)* (see attached Exhibit C). The property is proposed to be annexed into the City of Hayward, and an environmental impact report (SCH # 2002072047) was certified by the City of Hayward related to the proposed annexation in July of 2003.

II. FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

The proposed project, with the mitigation measures identified in the attached initial study checklist, will not have a significant effect on the environment.

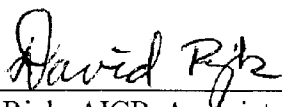
FINDINGS SUPPORTING DECLARATION:

1. The proposed project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared for the proposed project. The Initial Study has determined that the proposed project, with the recommended mitigation measures, could not result in significant effects on the environment.
2. The project will not adversely affect any scenic resources. A lighting plan will be required to ensure that light and glare does not affect area views. Landscape plans will be required to ensure that the number and sizes of trees is not substantially reduced during construction of the project and that the required new water tank at the Garin Reservoir site is adequately screened.
3. The project will not have an adverse effect on agricultural land since the subject site is not used for such purposes, does not contain prime, unique or Statewide important farmland and has been used and continues to be used for an active surface mining operation.
4. The project will not result in significant long term impacts related to changes in air quality, provided an Asbestos Dust Mitigation Plan approved by the Bay Area Air Quality Management District and standard dust control measures are implemented.
5. The project will not result in significant impacts to biological resources, including wildlife and wetlands, in that resource-agency approved assessments and surveys will ensure no such resources exist and if they do, resource agency-approved mitigation plans are implemented.
6. The project will not result in significant impacts to known cultural resources including historical resources, archaeological resources, paleontological resources, unique topography or disturb human remains.
7. The project site is located within a "State of California Earthquake Fault Zone"; however, fault trenching was conducted to locate fault traces to ensure no habitable structures would be built closer than 50 feet to a fault trace. Furthermore, recommendations of the project geotechnical consultant will be required to be incorporated into project design and implemented throughout construction, to address such items as landslides, erosion gullies on the eastern hillside, nonengineered on-site fill to be used as engineered fill and post-grading ground settlement. Also, construction will be required to comply with the Uniform Building Code standards to minimize seismic risk due to ground shaking.
8. Any potentially-containing asbestos material will be required to be buried at least 10 feet below finished grade in the development area, with the "asbestos" cap in the top 10 feet to be tested to ensure it is "clean." Also, as part of standard reclamation for the closure of the La Vista Quarry, site remediation will be required for any hazardous or toxic materials that exist on site.
9. The project will be required to meet all water quality standards as part of the normal development review and construction process. Drainage improvements will be made

to accommodate storm water runoff and the stormwater drainage system, including the proposed detention basins in the western part of the site, will be required to show via engineering calculations that they would not negatively impact the existing downstream drainage system of the Alameda County Flood Control and Water Conservation District.

10. The project proposes amendments to the Hayward General Plan Land Use and Zoning (prezoning) designations for the site. The project site will be required to be annexed into the City of Hayward prior to issuance of construction permits and be consistent with the City of Hayward's Hillside Design Guidelines and Mission-Garin Annexation Area Special Design District (SD-5) provisions, in the context of the proposed Planned Development District. Also, the project will be required to be consistent with the final reclamation plan approved for closure of the existing quarry operation.
11. The project could not result in a significant impact to mineral resources because other quarries in the vicinity would compensate for any lost materials due to development of the project site. Also, the development would be more consistent with the existing residential setting and would provide needed housing for Hayward, including affordable housing.
12. The project will be required to meet state minimum interior and exterior noise levels. As is typical for larger development projects in Hayward, construction noise will be mitigated through restriction on construction hours, mufflers, etc., to be approved as part of a Construction Noise Management Plan.
13. The project will not result in significant impacts related to population and housing in that the amount of development proposed is within the range of development analyzed in the Hayward General Plan Environmental Impact Report (SCH #: 2001072069), certified by Hayward in March of 2002, and in the Mission-Garin Annexation Project Program Environmental Impact Report (SCH #: 2002072047), certified by Hayward in July of 2003.
14. The project will not result in a significant impact to public services in that proposed development was analyzed in the Hayward General Plan EIR and Mission-Garin Annexation Project Program EIR.
15. The project will not result in significant impacts to traffic, including levels of service at surrounding intersections, as was shown in the Mission-Garin Annexation Project Program EIR, which analyzed a range of development that exceeds that proposed.

III. PERSON WHO PREPARED INITIAL STUDY:



David Rizk, AICP, Associate Planner

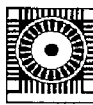
Dated: June 6, 2005

IV. COPY OF INITIAL STUDY IS ATTACHED

For additional information, please contact the City of Hayward, Planning Division, 777 B Street, Hayward, CA 94541-5007, telephone (510) 583-4004, or e-mail david.rizk@hayward-ca.gov.

DISTRIBUTION/POSTING

- Provide copies to all organizations and individuals requesting it in writing.
- Reference in all public hearing notices to be distributed at least 30 days in advance of initial public hearing and/or published once in Daily Review at least 30 days prior to hearing.
- Project file.
- Post immediately upon receipt at the City Clerk's Office, the Main City Hall bulletin board, and in all City library branches, and do not remove until the date after the City Council public hearing.



CITY OF
HAYWARD
HEART OF THE BAY

Initial Study Checklist

pursuant to the California Environmental Quality Act

1. **Project title:** La Vista Development
2. **Lead agency / project sponsor's name and address:**
City of Hayward, 777 B Street, Hayward, CA 94541.
3. **Contact person and information:** David Rizk, AICP david.rizk@hayward-ca.gov
Associate Planner (510) 583-4004
4. **Project location:** 28806 and 28816 Mission Boulevard in unincorporated Alameda County, located east of Mission Boulevard (State Highway 238) and west of Garin Regional Park at the site of the current La Vista Quarry - Assessor's Parcel Numbers 083010000201, 083010000202, 083007500207, 083007500209, 083012500112 (portion), 083026500600 (portion)
5. **Existing General Plan Land Use designation:** Limited Open Space
6. **Existing Pre-Zoning designation:** Agriculture (AB10A)
7. **Project description:** The 162-acre site is proposed for subdivision (Tract 7620) for development of 179 single-family residential lots and related streets on 29.4 acres, a 16-acre neighborhood park with stormwater detention basins, a community center or additional park area on 14.6 acres and open space and trails on the remaining 102 acres (see attached Exhibit A). The project developer will be required to install an additional water tank at the Garin Reservoir site, located south of the project site off Garin Avenue. The project would also entail construction of an eastward extension of Tennyson Road from Mission Boulevard to the development, as well as a new connector road leading from the development to Alquire Parkway. The project also entails 1) amendments to the City of Hayward's General Plan Land Use designations to *Limited Medium Density Residential* (8.7 to 12.0 dwelling units per net acre) for the residential portion of the site, to *Parks and Recreation* for the park and community center sites, with the remainder of the site proposed to remain *Limited Open Space* (see attached Exhibit B) and 2) amendments to zoning/prezoning designations, to a *Planned Development (PD) District* for the residential area of the property and eastern hillside and to *Open Space/Parks and Recreation (OS)* for the park/community center areas, with the remainder of the site to remain as *Agriculture (AB10A)* (see attached Exhibit C). The property is proposed to be annexed into the City of Hayward, and an environmental impact report (SCH # 2002072047) was certified by the City of Hayward related to the proposed annexation in July of 2003.
8. **Existing land uses and setting:** The project site contains the active La Vista Quarry, which includes an asphalt batch plant, aggregate processing plant and concrete/asphalt recycling facility.
9. **Surrounding land uses and setting:** Developed rural and suburban residential sites exist to the north and south, Garin Regional Park is located to the east, the 285-unit Clarendon Hills apartment complex is located to the southwest and an undeveloped 15½-acre resident parcel is located to the west, along with minimally developed State-owned lands (see attached Exhibit D).
10. **Other public agencies whose approval may be required:** Local Agency Formation Commission of Alameda County, California Department of Transportation, California Regional Water Quality Control Board, Bay Area Air Quality Management District, California Department of Toxic Substances Control, California Department of Fish & Game, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

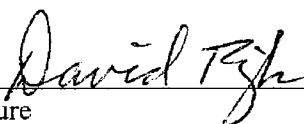
The environmental factors checked below would be potentially affected by this project, as indicated by the checklist on the following pages.

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input checked="" type="checkbox"/> Air Quality |
| <input checked="" type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input checked="" type="checkbox"/> Geology & Soils |
| <input checked="" type="checkbox"/> Hazards & Hazardous Materials | <input checked="" type="checkbox"/> Hydrology & Water Quality | <input type="checkbox"/> Land Use & Planning |
| <input type="checkbox"/> Mineral Resources | <input checked="" type="checkbox"/> Noise | <input type="checkbox"/> Population & Housing |
| <input type="checkbox"/> Public Services & Utilities | <input type="checkbox"/> Transportation | <input checked="" type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION:

On the basis of this initial evaluation:

- ☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.


Signature

June 6, 2005

Date

David Rizk, AICP, Associate Planner
Printed Name

City of Hayward
For

EVALUATION OF ENVIRONMENTAL IMPACTS:

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS - Would the project:				
a) Have a substantial adverse effect on a scenic vista? <i>Comments: Although the foothills to the east of Mission Boulevard provide a recognized backdrop to the built environment in this portion of Hayward, the proposed development is located on an active quarry site that has been substantially altered from its natural condition due to mineral extraction activities that have occurred over a number of decades. Therefore, the proposed project would not impact a scenic vista.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? <i>Comments: The project site is not within a State scenic highway view corridor; the closest State scenic highway being Interstate 580 at the San Leandro city limit, approximately four miles to the northwest.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings? <i>Comments: As indicated in attached Exhibits E through I, the proposed development would convert exposed, unvegetated land within an active quarry site to one with landscaping and associated single-family residential development that would be minimally visible from various vantage points in the vicinity. In the context of the highly disturbed quarry site, the proposed development would not represent a substantial degradation of the existing visual character of the site and its surroundings. Also, the project incorporates specific provisions of Mitigation Measure 4.1-1 of the <u>Mission-Garin Annexation Study Project Program Environmental Impact Report (MG EIR; SCH No. 2002072047)</u> that was certified by Hayward in July of 2003, including:</i> <ul style="list-style-type: none"> ◆ Use of non-reflective glazing and prohibition on reflective metal roofing, garage doors and trim material; ◆ Use of earth tone field and trim colors for residential dwellings; ◆ Use of roof forms that minimize exposure of buildings; ◆ Design of roadways that minimize views of 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>pavement beyond the project site; and</p> <p>♦ Use of techniques to minimize aesthetic impacts of individual residences, including, but not limited to, building design and use of landscape screening.</p> <p>Also, as indicated in the attached March 2005 tree report by HortScience, Inc. (Exhibit J), only 17 trees, which are Blue-Gum Eucalyptus, out of a total 153 on-site trees, will be removed as a result of the project. Such removal, given the number of other trees in the area and the proposed tree replacement plan as reflected in the project landscape plans, would not be considered as substantially degrading the existing visual character or quality of the site and its surroundings.</p> <p>Impact: Additional trees may be required to be removed in the western area of the park and possible community center, which could degrade the existing visual character of the site. Also, the project would also entail construction of an additional water tank at the Garin Reservoir site, located to the south off Garin Avenue (see attached Exhibit D). The introduction of a new tank could also degrade the existing visual character of the surrounding site in the area.</p> <p>Mitigation Measure I-c: In accordance with Mitigation Measure 4.1-1 of the MG EIR, the additional tank will be required to be painted neutral, earth-tone colors to blend in with the natural environment and screened with trees and shrubs, in accordance with the City's Hillside Design Guidelines. Also, any tree removals shall be replaced with new trees equal in size and species or value, in accordance with the City's Tree Preservation Ordinance, to be approved by the City Landscape Architect. Implementation of such measure will ensure such impacts generated by the project are less than significant.</p>				
<p>d) Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?</p> <p>Comments: The designs of the proposed homes utilize non-reflective materials for walls and incorporate darker, earth-tone colors. The subject site is currently utilized for the production of asphalt-concrete materials via a plant. The plant, located in the western central portion of the property, has a minimal amount of lighting.</p> <p>Impact: Proposed street lights and exterior lighting associated with new homes could adversely</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
affect nighttime views of the area from surrounding homes in the area and from views toward the hills from the west.				
<u>Mitigation Measure I-d:</u> In accordance with MG EIR Mitigation Measure 4.1-3, a detailed lighting plan shall be provided, to be submitted as part of a precise development plan, to incorporate fixtures that shall ensure that lighting off of the project site will be minimized, to prohibit landscape uplighting, with fixtures and plan to be approved by the Planning Director. Implementation of such measure will ensure lighting and glare impacts are less than significant.				

II. AGRICULTURE RESOURCES - Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <u>Comment:</u> The site does not involve Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the "Important Farmland in California, 2002" map of the Farmland Mapping and Monitoring Program of the California Department of Conservation, Division of Land Resource Protection. | | | | |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <u>Comment:</u> The site does not involve a Williamson Act contract and, given the active quarry use, does not have potential for an agricultural use. | | | | |
| c) Involve other changes in the existing environment that could result in conversion of Farmland, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <u>Comment:</u> See comments IIa) and IIb) above. | | | | |

III. AIR QUALITY - Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Conflict with or obstruct implementation of the applicable air quality plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <u>Comment:</u> The project would not conflict with or obstruct implementation of the Bay Area Air Quality Management District's (BAAQMD's) most recent Air Quality Plan (year 2000) in that the project proposes a number of units that were within a range anticipated in Hayward's General Plan Update EIR (SCH No. 2001072069), certified by the City in 2002. The City's General Plan has been determined to be consistent | | | | |

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
with the BAAQMD's Air Quality plan, according to the General Plan Update EIR.				
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comment: According to the project geotechnical engineer, unengineered fill that exists on the project site, as well as material to the south at the Garin Vista site that may be used for fill material on the project site, may contain serpentinite fragments. Serpentine rock often contains chrysotile asbestos fibers. Asbestos is classified as a known human carcinogen and was identified as a toxic air contaminant by the California Air Resources Board in 1986.

Impact: Serpentinite fragments that may exist in the unengineered fill on site and in imported material brought to the site have the potential to contain asbestos material, which could be released into the air if disturbed, which could negatively impact nearby residents.

Mitigation Measure III-b: Prior to the start of any construction or grading activity, including hauling of material to the project site, an asbestos dust mitigation plan approved by the Bay Area Air Quality Management District (BAAQMD) shall be implemented throughout the duration of construction or grading activity. In accordance with the State's "Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations" (CCR Title 17, Division 3, Chapter 1, Subchapter 7.5, Sections 93105 et seq. – see attached Exhibit K), the dust mitigation plan must specify dust mitigation practices which are sufficient to ensure that no equipment or operation emits dust that is visible crossing the property line, and must include one or more provisions addressing each of the following topics (see pages 6 through 11 of Exhibit K):

- a) Track-out prevention and control measures.
- b) Keeping active storage piles adequately wetted or covered with tarps.
- c) Control for disturbed surface areas and storage piles that will remain inactive for more than seven (7) days.
- d) Control for traffic traveling on project site unpaved roads, parking lots, and staging areas.
- e) Control for earth moving activities.
- f) Control for off-site transport.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>g) <i>Post construction stabilization of disturbed areas.</i></p> <p>h) <i>Air-monitoring for asbestos (if required by the BAAQMD's Air Pollution Control Officer).</i></p> <p>i) <i>Frequency of reporting.</i></p> <p><i>Implementation of such measures will ensure air quality impacts related to naturally occurring asbestos are less than significant.</i></p>				
<p>c): Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?</p> <p><u>Comment:</u> <i>The Bay Area has non-attainment status for federal and California state ambient air quality standards for ozone, as well as for State ambient air quality standards for particulate (PM₁₀) and fine particulate (PM_{2.5}) matter.</i></p> <p><u>Impact:</u> <i>The project, which is proposed to entail roughly 3.16 million cubic yards of balanced on-site cut and fill grading, and also approximately 416,000 cubic yards of imported material, has the potential through the release of dust, to exceed particulate matter standards and negatively affect local residents.</i></p> <p><u>Mitigation Measure III-c:</u> <i>In accordance with MG EIR Mitigation Measure 4.2-1, grading activities shall incorporate standard dust control measures, to include, but not be limited to frequent watering of the site, use of soil stabilizers, hydroseeding of graded areas and other measures that comply with Bay Area Air Quality Management District recommendations for dust control. Project construction grading plans shall state such measures on the plans, to be approved by the Hayward Public Works Department staff. Implementation of such measure will ensure such impacts are less than significant.</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>d): Expose sensitive receptors to substantial pollutant concentrations?</p> <p><u>Comment:</u> <i>The proposed limits of grading are shown to extend to the property lines of parcels containing existing residences located at the north end of Bodega Street and to the northwest of the proposed community center/park sites.</i></p> <p><u>Impact:</u> <i>The proximity of proposed grading, including truck traffic associated with hauling of grading material, to adjacent residences has the potential to expose occupants of those homes to elevated levels of fine particulate matter.</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<u>Mitigation Measure III-d: Implement Measures III-b and III-c above, which will ensure such air quality impacts are less than significant.</u>				
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>Comment:</u> The project entails a residential development, along with a proposed community center and park. The project is not expected to create objectionable odors.				

IV. BIOLOGICAL RESOURCES - Would the project:

- a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Comment: The project site contains an active, ongoing surface mining operation that has been in operation for decades. The upper portions of the site are located adjacent to Garin Regional Park, which provides habitat for a number of special status species. As indicated in Mitigation Measures 4.3-5 through 4.3-9 of the "Mission-Garin Annexation Study Project Program Environmental Impact Report" (MG EIR; SCH No. 2002072047) that was certified by Hayward in July of 2003, project-level habitat assessments and surveys for a variety of species are required. Specifically:

♦ MG EIR Mitigation Measure 4.3-5 requires that a California red-legged frog habitat assessment be conducted utilizing guidance established by the U.S. Fish and Wildlife Service (USFWS), with the assessment to be reviewed and confirmed by the USFWS. A red-legged frog habitat assessment was conducted by Wetland Research Associates (WRA) in March of 2005, who concluded that the lack of suitable aquatic habitat, associated uplands, and connectivity to potential habitats make the site extremely unlikely to support the red-legged frog (see attached Exhibit L, a March 2005 report entitled, "California Red-legged Frog Habitat Assessment, La Vista Quarry, Hayward, Alameda County, California"). The USFWS has not reviewed and confirmed the assessment.

♦ Mitigation Measure 4.3-6 of the MG EIR requires that a focused Alameda whipsnake habitat assessment be conducted at project-specific levels to determine if suitable habitat and if primary constituent elements

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>for critical habitat for the whipsnake are present, with the assessment to be submitted to the USFWS for review and confirmation. Wetland Research Associates conducted an assessment in March of 2005 and concluded that suitable habitat is not present at the project site, given the lack of shrub and chaparral communities, undisturbed rock outcrop areas and connectivity to potential habitats (see attached Exhibit M, a March 2005 report entitled, "Alameda Whipsnake Habitat Assessment, La Vista Quarry, Hayward, Alameda County, California"). The USFWS has not reviewed and confirmed the assessment.</p> <p>♦ Mitigation Measures 4.3-7 and 4.3-8 of the MG EIR require that focused special status raptor/shrike and Golden Eagle habitat surveys be conducted at project-specific levels, following survey protocols established by resource agencies, with Golden Eagle and developed in consultation with the California Department of Fish and Game (CDFG). The mitigation measures indicate if any such special-status species are observed within specified line-of-sight distances (250 feet for Western burrowing owl, ¼-mile for Golden Eagle, 200 feet for loggerhead shrike and 300 feet for all other special-status raptors), then construction/grading activity not be conducted during the nesting season (typically running from March through the end of August) or during any active Golden Eagle pair breeding or nesting season. Wetland Research Associates conducted four surveys between March 17 and May 3 of 2005 (see attached Exhibit N, a report dated May 23, 2005 entitled, "La Vista Quarry Nesting Raptor and Shrike Studies" and attached Exhibit O, a report dated May 23, 2005 entitled, "La Vista Quarry Golden Eagle Studies.") An April 13, 2005 survey revealed an active red-tailed hawk nest in a eucalyptus tree approximately 1,700 feet northeast of the intersection of Mission Boulevard and the quarry access road and approximately 1,000 feet east of the quarry office. No other nesting raptors were observed, nor was suitable burrow habitat observed during the surveys.</p> <p>♦ Mitigation Measure 4.3-9 requires that a focused rare plant survey be conducted by a qualified botanist during the appropriate season, in accordance with survey protocols acceptable to the USFWS and CDFG. Wetland Research Associates conducted a rare plant survey in April of 2003 and also researched the California Department of Fish and Game's Natural Diversity Data Base records and the electronic version of the California Native Plant</p>				

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p><i>Society's Inventory of Rare and Endangered Vascular Plants of California for the East Bay area (see attached Exhibit P, a report dated September of 2003 entitled, "Rare Plant Survey of La Vista Quarry, Hayward, Alameda County, California"). The report indicates that 15 special-status plants could occur in the area, of which, nine had blooming periods during the date of the April survey and appropriate habitat was determined not to exist for the other six species. No such species were observed.</i></p> <p><u>Impact:</u> <i>Given the proximity of the project to Garin Regional Park, the project has the potential to significantly impact special-status plant and animal species and their habitat.</i></p> <p><u>Mitigation Measure IV-a:</u></p> <p><i>In accordance with Mitigation Measures 4.3-5 through 4.3-6 of the Mission-Garin Annexation EIR, prior to the start of grading or construction, the U.S. Fish and Wildlife Service (USFWS) shall confirm all habitat assessments conducted by Wetland Research Associates for California red-legged frog and Alameda whipsnake. If California red-legged frogs or Alameda whipsnakes and/or their occupied habitats are determined to be present based on results of habitat assessments or protocol-level surveys, then a project specific California red-legged frog and/or Alameda whipsnake mitigation plan should be developed, approved by the USFWS and CDFG prior to development, and implemented.</i></p> <p><i>In accordance with Mitigation Measures 4.3-7 through 4.3-8 of the Mission-Garin Annexation EIR, prior to the start of grading or construction, surveys utilizing protocols acceptable to the resource agencies, including burrowing owl survey protocol and protocol for Golden Eagle surveys established by the California Department of Fish and Game (CDFG), shall be conducted. If such surveys reveal the presence of nesting Golden Eagles within 0.25 mile and in direct line-of-sight distance from project activity, presence of Western burrowing owls within 250 feet, presence of loggerhead shrikes within 200 feet or presence of any other special-status raptors within 300 feet of project activity, construction activity within the above-specified buffer zones shall be completed before the nesting season or be postponed until after the nesting season (March through the end of August). The limit related to presence of Golden Eagles shall be applicable during the entire tenure eagles are actively nesting within the buffer zone, not just during the typical breeding</i></p>				

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>season.</p> <p><i>Also, given suitable on-site habitat exists for loggerhead shrike and a nesting pair of red-tailed hawks was observed on site, further raptor and shrike and Golden Eagle surveys following survey protocols established by resource agencies shall be conducted during the nesting season immediately preceding start of grading or construction, to confirm no active raptor nests exist that could be impacted by construction activities.</i></p>				
<p>b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies or regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?</p> <p><u>Comment:</u> <i>As indicated in the reports identified under item IVa) above, no such riparian habitat or other sensitive natural communities were identified within the limits of the proposed project development.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act?</p> <p><u>Comment:</u> <i>Mitigation Measure 4.3-1 of the MG EIR requires that formal jurisdictional wetland delineations be conducted at a project-specific level, utilizing methodology set forth by the US Army Corps of Engineers. The project applicant's biological consulting firm, Wetland Research Associates (WRA) conducted a wetland delineation survey in March of 2005 and found no evidence of jurisdictional wetlands (see attached Exhibit Q, a report entitled "Delineation of Potential Jurisdictional Wetlands under Section 404 of the Clean Water Act, La Vista Quarry Study Area, Hayward, Alameda County, California," by Wetland Research Associates, dated May 23, 2005). However, the area within the limits of grading of the proposed eastward extension of Tennyson Road has not been recently surveyed, though WRA will be surveying such area in the near future. It is likely a jurisdictional wetland exists in such area in that a wetland measuring 6,324 square feet and located approximately 650 feet to the east of Mission Boulevard was identified in the same general area, as part of the environmental assessment for the previously proposed Route 238 Hayward Bypass Project. Such wetland is indicated on Plate 12C of the May 2000 "Final Environmental Impact Statement/Report and Final Section 4(F) Evaluation (Volume 1), Proposed Route 238 Hayward Bypass Project" (SCH No. 86093222). The Army Corps of</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>Engineers concurred with the delineation in a March 8, 1996 letter and indicated such jurisdictional delineation would expire on March 8, 2001. The Corps has not issued a revised formal delineation.</p> <p>Impact: Grading for the proposed eastward extension of Tennyson Road could impact the existing wetland located approximately 650 feet to the east of Mission Boulevard.</p> <p>Mitigation Measure IV-c: Prior to the issuance of permits for grading or construction for the proposed Tennyson Road extension, formal jurisdictional wetland delineation/verification shall be secured from the US Army Corps of Engineers, including for the area associated with the eastward extension of Tennyson Road. If such delineation indicates a wetland exists which would be unavoidable and impacted by the proposed Tennyson Road extension or any other portion of the project, a permit/approval from the Corps shall be obtained and a wetland mitigation plan utilizing the standard minimum replacement ratio of 1:1 shall be developed and implemented prior to the start of grading and construction. Such mitigation plan shall be approved by the US Army Corps of Engineers, the California Department of Fish and Game and the California Regional Water Quality Control Board. Such measure will ensure impacts to jurisdictional wetlands as a result of the project would be less than significant.</p>				
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comment: The project is proposed at an active quarry site in an area to the west of Garin Regional Park and is not expected to interfere substantially with such movements or corridors. Undeveloped lands would exist to the south of the project, maintaining an east-west corridor to Garin Regional Park.</p>				
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comment: The project would not conflict with any local policies or ordinances established to protect biological resources, except possibly Hayward's Tree Preservation Ordinance, which encourages preservation of trees.</p> <p>Impact: The project would entail removal of 17 of the</p>				

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>153 on-site trees (see attached Exhibit J). Since the 17 Blue Gum Eucalyptus trees exceed eight inches in diameter, they are considered "protected" trees, per the City's Tree Preservation Ordinance, and are required to be replaced with "like-size, like-kind trees or an equal value tree or trees as determined by the City's Landscape Architect." Also, additional trees may be removed as part of construction of the proposed community center and park and detention basins.</p> <p>Mitigation Measure IV-e: In accordance with Hayward's Tree Preservation Ordinance, any "protected" trees as defined by the City's Tree Preservation Ordinance that are to be removed as a result of the project shall be replaced with like-size, like-kind trees or trees equal in value to them, as determined by the City's Landscape Architect. Such measures will ensure impacts due to removal of protected trees are less than significant.</p>				
<p>f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?</p> <p>Comment: No Habitat Conservation Plan, Natural Community Conservation Plan or any other local, regional or stat habitat conservation plans exist that would involve the project site.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

V. CULTURAL RESOURCES - Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Cause a substantial adverse change in the significance of a historical resource as defined in section 15064.5 of the CEQA Guidelines? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <p>Comment: According to a March 20, 2005 cultural resources assessment by Basin Research Associates, no evidence of prehistoric or significant historic archaeological or architectural features or sites was observed during a March 2, 2005 field inventory of the project site. Therefore, no significant impacts to archaeological resources are anticipated as a result of the project.</p> | | | | |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to section 15064.5 of the CEQA Guidelines? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <p>Comment: See comment V-a above.</p> | | | | |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<u>Comment:</u> See comment Va) above.				
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Comment:</u> Given the highly disturbed nature of the project site due to active mining activity, it is unlikely any human remains will be disturbed as a result of the proposed project. However, in accordance with State law and standard grading procedures, if any human remains are discovered, work in the vicinity of such remains shall cease and the County Coroner contacted for a determination as to whether such remains may be those of Native Americans. Any subsequent activity regarding such remains shall follow procedures as outlined in CEQA Guidelines Section 15064.5(e).				

VI. GEOLOGY AND SOILS - Would the project:

- a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

- i) Rupture of a known earthquake fault?

Comment: The project site is within the State's Earthquake Fault Zone. Significant trenching has been conducted on the project site, with the results of such trenching and observations summarized in four reports by the project geological consulting firm, Berlogar Geotechnical Consultants. The reports, which have been reviewed and accepted by the City's geotechnical peer-review consultant, are:

- ◆ "Fault Investigation Report, La Vista Quarry, Hayward, California," dated February 29, 2000;
- ◆ "Supplemental Fault Investigation Report, La Vista Quarry, Hayward, California," dated February 3, 2001;
- ◆ "Report Fault Investigation, Marcotte Property, Alquire Parkway, Hayward, California," dated December 3, 2001;
- ◆ "Fault Investigation, Proposed Community Center, Northwestern Site Corner, La Vista Quarry, Hayward, California," dated February 18, 2005.

The reports identify a concentrated fault zone measuring 96 to 280 feet wide along the generally recognized active trace of the Hayward fault. Such concentrated fault zone, along with the standard recommended minimum 50-foot setback to the east

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>of such zone, are reflected on the vesting tentative tract map and associated plans. The reports also identify an area of discontinuous fault features southeast of the main fault traces that are concluded to be a zone of potential secondary ground deformation during main trace fault rupture, within which special reinforced foundations are recommended. Such area is also shown on the submitted tract map and plans.</p> <p>Impact: Construction of homes close to the active Hayward fault trace could result in injuries, death and/or property damage as a result of fault trace rupture.</p> <p>Mitigation Measure VI-ai): No habitable structures, including a possible community center, shall be built closer than 50 feet of the active Hayward fault trace and concentrated fault zone, as indicated on the submitted plans. Additionally, special foundation designs shall be incorporated into homes proposed to be built within the identified special foundation zone at the southeast corner of the proposed development. The design of such foundations and location of homes and possible community center shall be in accordance with the recommendations of the project geotechnical consultant, to be confirmed via plan review and "as-built" letters from the project geotechnical consultant, to be submitted prior to issuance of building permits and prior to project finalization, respectively. Such measures will ensure impacts related to fault rupture are less than significant.</p>				
<p>ii) Strong seismic ground shaking?</p> <p>Comment: The severity of ground shaking at a particular site is controlled by several factors, including the distance from the earthquake source, the earthquake magnitude, and the type, thickness and condition of underlying geologic materials. The project geotechnical consultant, Berlogar Geotechnical Consultants, have provided design-level recommendations in a report dated May 24, 2005 (see pages 13 to 30 of such report, attached as Exhibit R), including recommendations related to:</p> <ul style="list-style-type: none"> ♦ landslide treatments (five of seven identified on-site landslides will be removed and replaced with engineered fill and the remaining two will be left in place in that they are located outside the reclaimed quarry slope area along the northern project boundary away from 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>existing or future structures),</p> <ul style="list-style-type: none"> ♦ repair of existing erosion gullies on the existing reclaimed portion of the quarry slope (to be removed and replaced with engineered fill or treated with a buttress fill, and planted with fast-growing, deep-rooted grasses), ♦ removal of nonengineered fill from areas of proposed improvements (if used as engineered fill, compacted to 95% density greater than 20 feet below finished grade and to 90% compaction within 20 feet of finished grade), and ♦ potential settlement of future engineered fill below proposed improvements (anticipated to range up to three inches after completion of grading), recommended to be monitored by a California-licensed surveyor just after finished grading is completed, every two weeks for a few months after grading and every month thereafter for several more months (to be specified for as long as recommended by the project geotechnical consultant and approved by the City Engineer). <p>Impact: The fact that the active Hayward fault runs through the project site increases the chances that severe ground shaking will likely occur during a major seismic event, which could result in loss of life and/or property.</p> <p>Mitigation Measure VI-iii: As recommended by the City's geotechnical peer-reviewer (see Exhibit S), prior to issuance of construction permits, the project geotechnical consultant shall review the final construction plans to ensure that site grading, fault and slope setbacks, foundation designs, subdrainage, etc. are in accordance with the project consultant's recommendations, and provide a plan review letter to the City. Also, the project certified engineering geologist and geotechnical engineer shall be on site during grading, excavations, keyways, cuts, etc. to verify that actual geologic conditions, fault locations and special foundation zones are as anticipated and that appropriate supplemental recommendation be provided, as necessary. The results of such inspections, testing, and/or modifications shall be documented in an "as-built" letter/report prepared by the project engineering geologist/geotechnical engineer and submitted to the City before final approval of permits is granted. Implementation of such measures, including careful monitoring of</p>				

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<i>grading during construction by the project engineering geologist and geotechnical engineer, will ensure such impacts are less than significant.</i>				
iii) Seismic-related ground failure, including liquefaction? <i>Comment: The project geotechnical consultant indicates the potential for liquefaction is low. Also, the site is shown outside a liquefaction zone, according to the State's Seismic Hazard Zones Map. Therefore, hazards related to ground failure and liquefaction are considered low in probability.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv) Landslides? <i>Comment: See discussion under item VI-aii above. Impact: See discussion under item VI-aii above. Mitigation Measure VI-aiv: Implement Mitigation Measure VI-aii, which will reduce the significance of landslide-related impacts to a level of insignificance.</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil? <i>Comment: The proposed project would result in a large hillside above and to the east of the proposed development, with slopes ranging in steepness from 3:1 to 2:1. Also, 2:1 slopes are proposed between rows of homes. Impact: Unprotected areas after finished grading could result in soil erosion and loss of topsoil, impacting on-site and off-site improvements. Mitigation Measure VII-b: All exposed areas within the proposed project limits of grading are to be planted with vegetation, to the satisfaction of the City's Landscape Architect or, if temporary stockpiles of material are created on-site, covered with material to prevent material from being washed away.</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? <i>Comment: See discussion under item VI-aii above. Impact: See discussion under item VI-aii above. Mitigation Measure VI-c: Implement Mitigation Measure VI-aii, which will reduce the significance of such impacts to a level of insignificance.</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Be located on expansive soil, creating substantial risks to life or property? <i>Comment: The fill used for the project will not be</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
expansive.				
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment: The development would be required to connect to the City's public sewer system.				

VII. HAZARDS AND HAZARDOUS MATERIALS - Would the project:

- | | | | | |
|---|--------------------------|-------------------------------------|--------------------------|-------------------------------------|
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Comment: The project would entail construction of 179 single-family homes and related improvements, including a community center and park. Therefore, no such hazards related to routine project operations or functions are anticipated. | | | | |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Comment: Asbestos is classified as a known human carcinogen by state, federal and international agencies and was identified as a toxic air contaminant by the California Air Resources Board (CARB) in 1986. All types of asbestos are hazardous and may cause lung disease and cancer. Asbestos is a term used for several types of naturally-occurring fibrous minerals found in many parts of California. The most common type of asbestos is chrysotile, but other types are also found in California. Serpentine rock often contains chrysotile asbestos. Serpentine rock, and its parent material, ultramafic rock, are abundant in the Sierra foothills, the Klamath Mountains, and Coast Ranges. According to the project geotechnical engineer, there may be a potential for some serpentinite fragments to be present in old nonengineered fills on the site, as well as in import material from the Garin Vista site to the south. As indicated in attached Exhibit T, the project geotechnical consultant recommends that any such material with the potential to contain naturally-occurring asbestos be buried at least 10 feet below the finished grade surface in the residential lot area, with a <u>consideration</u> of disclosure to future buyers of properties, or be buried at least two feet below finished grade, with disclosure <u>required</u> for future buyers of properties. Also, the project geotechnical consultant recommends that asbestos-containing soil | | | | |

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>be buried at least two feet below finished grade surface in other areas, including the community park and center area, with disclosure to the City required. The consultant indicates there is suitable on-site material free of asbestos-containing materials to be used for the recommended "cap" at the upper portions of the ground surface.</p> <p>Also, there may be contaminants on site related to the existing surface mining operation, including those associated with the existing 16,000-gallon propane tank located near the existing asphalt plant, the five 12,000-gallon underground oil storage tanks and the above-ground 7,000-gallon storage tank that stores SS-1 emulsion (50 percent oil and 50 percent soap and water).</p> <p>Impact: Release of asbestos fibers through disturbance of soil containing such material could result in a health hazard to nearby residents and workers.</p> <p>Also, contaminants in the soil related to the existing surface mining operation could pose a threat to construction workers and future residents and users of the community park.</p> <p>Mitigation Measure VII-b(1): Implement Mitigation Measure III-b (Asbestos Dust Mitigation Plan). Also, reflective of recommendations of the project geotechnical consultant, no asbestos-containing material shall be placed within 10 feet of the finished grade surface within the proposed development, including all residential lots, streets and roads, outdoor open space areas and trails within and immediately adjacent to the development, and in the proposed community center and park areas and roads leading to the development (not intended to apply to reclaimed eastern hillside above development). Additionally, material to be used for the upper area "cap" shall be tested in accordance with a State-approved testing method, such as the Air Resources Board's Test Method 435, to confirm such material does not contain more than 0.25 percent asbestos material. Such measures will ensure impacts resulting from release of asbestos-containing materials will be less than significant.</p> <p>Mitigation Measure VII-b(2): In accordance with Mitigation Measure 4.6-1(a) of the MG EIR, prior to start of project grading, project developers shall contact the Alameda County Environmental Health Department, Bay Area Air Quality Management District, State Department of Toxic Substances Control and the Hazardous Materials Division of the</p>				

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p><i>Hayward Fire Department, for required site clearances, necessary permit and facility closure with regard to demolition and removal of hazardous material from the site. All work shall be performed by licensed contractors in accordance with state and federal OSHA standards. Worker safety plans shall be included for all demolition plans. Additionally, a Phase I Preliminary Site Assessment (PSA) shall be conducted to assess conditions and activities at the site in association with a surface mining operation that could represent the potential presence of hazardous materials. Also, if justified by the PSA, additional studies, including possibly a Phase II soil and groundwater quality investigation shall be conducted, with remedial measures identified in such investigation to be implemented in accordance with standard practices.</i></p> <p><i>Implementation of such measures will reduce such impacts related to hazardous materials to levels of insignificance.</i></p>				
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Comment: The project sit is not within one-quarter mile of an existing or proposed school.</i>				
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Comment: The site is not included on the California Department of Toxic Substances Control's Cortese list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and therefore, no such impact would occur as a result of the project.</i>				
e) Result in a safety hazard for people residing or working within an area subject to an airport land use plan or within two miles of a public airport or public use airport?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Comment: The site is not located within two miles of a public airport or public use airport and therefore, no such impacts would occur as a result of the project.</i>				
f) Result in a safety hazard for people residing or working in the vicinity of a private air strip?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Comment: The site is not located within the vicinity of a private air strip and therefore, no such impacts would occur as a result of the project.</i>				

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comment: The project would provide additional means of ingress and egress for residents in the area through the required extensions and connection of Tennyson Road and Alquire Parkway; however, the proximity of the Hayward fault trace to the project site could result in damaged roads and utility lines that could impede emergency response and evacuation activities.

Impact: The planned extension of Tennyson Road and Alquire Parkway, and the connector road linking those extensions, roadways and utility lines that are proposed to cross the Hayward earthquake fault trace may be damaged during a seismic event, which could impair evacuation and emergency response activities during an emergency event.

Mitigation Measure VII-g: Recommendations of the project geotechnical engineer related to street and utility lines shall be incorporated into the project design (see Exhibit R, pages 17 and 18). Such recommendations indicate that utility lines are to be placed east of the Hayward earthquake fault trace for the Alquire Parkway extension and that special design features, such as flexible pipes, shutoff valves on either side of the fault trace and use of an outer conduit, be incorporated where utility lines would cross the fault trace for the Tennyson Road extension. The design of water main pipes crossing the Hayward fault trace shall be consistent with the City's Standard Detail 227. Such measures will ensure such impacts will be less than significant.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><u>Comment:</u> The project would provide additional means of ingress and egress for residents in the area through the required extensions and connection of Tennyson Road and Alquire Parkway; however, the proximity of the Hayward fault trace to the project site could result in damaged roads and utility lines that could impede emergency response and evacuation activities.</p> <p><u>Impact:</u> The planned extension of Tennyson Road and Alquire Parkway, and the connector road linking those extensions, roadways and utility lines that are proposed to cross the Hayward earthquake fault trace may be damaged during a seismic event, which could impair evacuation and emergency response activities during an emergency event.</p> <p><u>Mitigation Measure VII-g:</u> Recommendations of the project geotechnical engineer related to street and utility lines shall be incorporated into the project design (see Exhibit R, pages 17 and 18). Such recommendations indicate that utility lines are to be placed east of the Hayward earthquake fault trace for the Alquire Parkway extension and that special design features, such as flexible pipes, shutoff valves on either side of the fault trace and use of an outer conduit, be incorporated where utility lines would cross the fault trace for the Tennyson Road extension. The design of water main pipes crossing the Hayward fault trace shall be consistent with the City's Standard Detail 227. Such measures will ensure such impacts will be less than significant.</p>				

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
h) Expose people or structures to a significant risk involving wildland fires?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><u>Comment:</u> The project site is located in a hillside area that contains limited water supply and restricted emergency vehicle access. Strict adherence to the City's "Urban/Wildland Interface Guidelines", including development and implementation of a fuel management program, will help reduce wildland fire hazards once residential development projects are completed.</p> <p><u>Impacts:</u> However, hazards will exist during construction phases for both construction workers and surrounding (downhill) residents, unless proper measures are implemented, including providing adequate emergency vehicle access and sufficient water supply for fire suppression.</p> <p><u>Mitigation Measure VII-h:</u> Prior to start of construction involving combustible materials, or as required by the Hayward Fire Department, an additional water tank equal in size to the existing water tank, shall be constructed at the Garin Reservoir Site to the south of the project (see Exhibit D), and improved with a water system acceptable to the Hayward Fire and Public Works Departments that would bring adequate water supply and pressure to the project site. Also, prior to the start of construction involving combustible materials, roadways acceptable to the Hayward Fire Department shall be constructed, to provide emergency vehicle access to the project site. Also, a fuel management plan, acceptable to the Hayward Fire Department, shall be implemented throughout construction and incorporated into the design of homes and structures. Such measures will ensure hazards related to wildland fires are insignificant.</p>				

VIII. HYDROLOGY AND WATER QUALITY - Would the project:

a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><u>Comment:</u> The project proposes a drainage system that would result in storm water flowing into a series of detention basins proposed in the western portion of the property in proposed park area. From the basins, storm water would eventually discharge into drainage improvements maintained by the Alameda County Flood Control and Water Conservation District (Line A), with storm water eventually flowing into San Francisco Bay.</p> <p><u>Impacts:</u> During construction and after project completion, there is the potential for erosion of</p>				

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>exposed surfaces to enter the stormwater system, which could negatively impact water quality and violate water quality standards.</p> <p><u>Mitigation Measure VIII-a:</u> Per State regulations, a Notice of Intent (NOI), and Storm Water Pollution Prevention Plan (SWPPP) and Stormwater Quality Protection Plan shall be prepared and submitted to the State for review and approval. These documents shall also be submitted along with the grading permit application for review and approval by the City of Hayward. Grading and construction plans shall incorporate erosion and sedimentation control measures to be implemented during all phases of construction activities.</p> <p>The improvement plans for the project shall incorporate Best Management Practices (BMP's) designed in accordance with applicable provisions of the Alameda County Clean Water Program NPDES permit Section C.3, including the hydraulic sizing criteria, which will ensure that storm water runoff is treated prior to discharge from the site and that runoff rates are such that downstream impacts are reduced to the maximum extent practical. Such measures will ensure that water quality impacts are less than significant.</p>				
<p>b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level?</p> <p><u>Comment:</u> The project would be served by the City's public water system and would not rely on groundwater for a source of water. Also, the amount of groundwater lost due to impervious surfaces associated with development would be considered insignificant in the context of the vicinity and undeveloped hillsides to the east above Bodega Street residents. Therefore, impacts on groundwater are anticipated to be minimal.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on- or off-site?</p> <p><u>Comment:</u> The project proposes a drainage system that would result in storm water flowing into a series of detention basins proposed in the western portion of the property in proposed park area. From the basins, storm water would eventually discharge into drainage improvements maintained by the Alameda County Flood Control and Water Conservation District (Line</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>D), with storm water eventually flowing into San Francisco Bay.</p> <p>Impacts: The proposed stormwater drainage system could result in substantial erosion that could negatively impact downstream properties.</p> <p>Mitigation Measure VIII-c: The development plans for the site will not substantially alter the drainage pattern of the area. The development's improvement plans will incorporate BMP's, including erosion and sedimentation control measures, that will treat all water prior to discharge and will ensure that the discharge rate from the site is consistent with existing rates.</p>				
d) Substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comment: No such impacts are anticipated in that the drainage system will be required to be approved by the City of Hayward and the Alameda County Flood Control and Water Conservation District.</p>				
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comment: The project, located in Alameda County Flood Control and Water Conservation District's (ACFCD) Zone 3A, would entail construction of a 179-unit residential development, with associated roads and impervious surfaces. Drainage from such development would flow into proposed detention basins in the western portion of the project site in proposed park areas, which would release stormwater to ACFCD's Line D, an earth-lined channel located southwesterly of the project site.</p> <p>Impacts: The project could generate stormwater runoff that could exceed the capacity of downstream facilities.</p> <p>Mitigation Measure VIII-e: Proposed detention basins and project drainage system shall be designed in accordance with Alameda County Flood Control and Water Conservation District's standards, with such design to be supported via hydraulic calculations from the project engineer, to be reviewed and approved by the ACFCD and the City of Hayward Public Works Department. Any increased flow resulting from the proposed development would be required to be mitigated on-site. Implementation of such measures will ensure</p>				

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<i>no impacts related to capacity of downstream facilities would be significant.</i>				
f) Otherwise substantially degrade water quality? <i>Comment: No such impacts other than those identified in subsections a) and c) are anticipated.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? <i>Comment: According to FEMA Flood Insurance Rate Maps, this site is not within a 100-year flood hazard area.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures that would impede or redirect flood flows? <i>Comment: According to FEMA Flood Insurance Rate Maps, this site is not within a 100-year flood hazard area.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? <i>Comment: Proposed development would be in the eastern hills to the east of Mission Boulevard, several hundred feet in elevation above Mission Boulevard and sea level. Therefore, no such impacts are anticipated.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow? <i>Comment: See comment under VIII-i above.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IX. LAND USE AND PLANNING - Would the project:

- | | | | | |
|---|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Physically divide an established community?
<i>Comment: The development is proposed at the periphery of existing development to the west of Garin Regional Park and would not divide an established community.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect?
<i>Comment: The project is located in unincorporated Alameda County, whose regulations currently govern the property. The project would entail amendments to Hayward's General Plan Land Use designation for the property from Limited Open Space to Limited Medium Density Residential and Parks and Recreation. Any approval of the proposal would include a condition that the site be annexed into the City of Hayward prior to recordation of the final map.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p><i>The project will be required to be in compliance with the City's Hillside Design Guidelines and Mission-Garin Area Special Design District (SD-5) provisions, within the context of the Planned Development District provisions, which allows for consideration of deviations from typical development standards, provided offsetting facilities or amenities are provided.</i></p> <p><i>Also, in accordance with the State's Surface Mining and Reclamation Act (SMARA), the project will be required to be consistent with any final approved reclamation plan approved by the State's Office of Mine Reclamation and the applicable SMARA lead agency (to be City of Hayward or Alameda County, depending on timing of annexation).</i></p> <p><i>Therefore, project impacts related to these types of impacts are anticipated to be less than significant.</i></p>				
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment: <i>The project would not conflict with any such plan.</i>				

X. MINERAL RESOURCES - Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
- Comment:** *The project site currently contains an active surface mining operation (La Vista Quarry). The mine has a surface mining permit from Alameda County to operate through the year 2008, and the quarry land owners have indicated a desire to develop the property with residences. The Hayward General Plan states on page 7-5, "Upon closure of the La Vista Quarry, the City would instead rely on the production of other quarries in the region, which is expected to be adequate to meet the needs of the City and others for the foreseeable future."*
- Reasons to support closure of the quarry and development of the proposed project include:*
- Enhanced visual treatment of the area, including trees and related amenities (i.e., trails, etc.) associated with a residential development.*
 - Compatibility with residential development in an area that over the years has developed with residences in a more suburban setting and will continue to develop with such uses.*
 - Provision of needed housing, including affordable housing as required by the City's Inclusionary Housing Ordinance.*

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
4. Provision of a community park and funding and construction of a community center on site or in the general vicinity, in an area that is underserved by such facilities.				
5. Alternative sources of aggregate material in the vicinity from newer quarries becoming available, such as from the Sunol quarry, located south of I-680 and State Route 84.				
6. Reduction in demand for aggregate material resources, due to alternative sources of material becoming available through recycling/reuse and the use of dredged sand.				
Therefore, no impacts related to this land use issue are anticipated.				
b) Result in the loss of availability of a locally important mineral resource recovery site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment: See comments under item X-a above.				

XI. NOISE - Would the project result in:

- | | | | | |
|---|--------------------------|-------------------------------------|--------------------------|--------------------------|
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|---|--------------------------|-------------------------------------|--------------------------|--------------------------|
- Comment:** The project would involve significant amounts of grading with large grading equipment, as well as construction of homes and roads. Section 4-1.03 of the Hayward Municipal Code governs persistent noise and construction noise. Under this section, repeated or persistent loud noise is considered unlawful. Construction activities generating noise are limited to the hours of 7 a.m. to 7 p.m., Monday through Saturday. Construction hours on Sundays are limited to 10 a.m. to 6 p.m.
- Impact:** The project could negatively impact nearby residents due to temporary excessive construction noise.
- Mitigation Measure XI-a:** In accordance with MG EIR Mitigation Measure 4.9-1, a Construction Noise Management Plan shall be prepared and implemented. Such plan must be approved by the Hayward Community and Economic Development Director prior to issuance of grading permits and shall contain, at minimum, a listing of hours of construction operations (which shall be in accordance with the City's construction hours), use of mufflers on construction equipment, limitation of on-site speed limits, identification of haul routes to minimize travel through residential areas and identification of noise monitors. Specific noise management measures shall be included in

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<i>appropriate contractor specifications. Such measures will reduce temporary construction noise impacts to levels of insignificance.</i>				
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? <u>Comment:</u> As stated in the MG Draft EIR on page 145, no significant vibration impacts are anticipated.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? <u>Comment:</u> The project would entail development of single-family homes and a public park. Ambient noise levels associated with such development would be less than those that currently exist with an active mining operation. Therefore, no such impacts are anticipated.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? <u>Comment and Impact:</u> As indicated under item XI-a above, there will be expected temporary significant construction noise impacts. <u>Mitigation Measure XI-d:</u> Implement Mitigation Measure XI-a, which would reduce such impacts to a level of insignificance.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Exposure of people residing or working in the project area to excessive noise levels due to location within an airport land use plan or within two miles of a public airport or public use airport? <u>Comment:</u> No such airports are within two miles of the project site and the site is outside the Hayward Executive Airport's influence area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Exposure of people residing or working in the project area to excessive noise levels due to location within the vicinity of a private airstrip? <u>Comment:</u> No such airstrips are within two miles of the project site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XII. POPULATION AND HOUSING - Would the project:

- | | | | | |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?
<u>Comment:</u> Utilizing an average household size of 3.08 (Census 2000 median household size for Hayward), the project would introduce an additional 550 persons to the area. However, as indicated in the discussion in Section 4.10 of the Mission Garin | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<i>Annexation Project Program EIR, proposed development on the subject site would fall within the range of development anticipated and analyzed in the Hayward General Plan, adopted by the City in March of 2002. The MG EIR evaluated impacts of development on this site that ranged from 27 to 321 dwelling units and concluded no significant impacts related to population and housing above that anticipated in the Hayward General Plan EIR would be expected. Therefore, impacts related to increased population would be less than significant.</i>				
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? <i><u>Comment:</u> No existing housing would be displaced as a result of the project.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? <i><u>Comment:</u> No existing housing would be displaced as a result of the project.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XIII. PUBLIC SERVICES & UTILITIES - Would the project result in:

- a) Substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for the following public services:

Fire protection?

Comment: As indicated in section 4.12 of the MG EIR, such impacts are not expected to be significant. Visual impacts related to a new water tank have been addressed previously in this document.

☐ ☐ ☒ ☐

Police protection?

Comment: As indicated in section 4.12 of the MG EIR, such impacts are not expected to be significant.

☐ ☐ ☒ ☐

Schools?

Comment: The project site is within the Treeview Elementary School attendance area of the Hayward Unified School District. The project developer will be required to pay required school impact mitigation fees, which, per State law, is considered full mitigation.

☐ ☐ ☒ ☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Parks/Recreation? <i>Comment: A new community park and possible new community center are proposed. No significant impacts associated with construction of such facilities that are not identified elsewhere in this document are anticipated. The provision of a new park and possible new community center in an area that lacks adequate parkland would be a beneficial impacts</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? <i>Comment: Impacts associated with the number of units on this site that were analyzed in the MG EIR in Section 4.12 were determined to be insignificant. Since the number of units proposed for this project would be less than the maximum analyzed in the MG EIR, project impacts would be expected to be insignificant.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? <i>Comment: As indicated in the MG EIR in Section 4.12, adequate capacity exists at the City's wastewater treatment facility to accommodate the proposed development. However, an existing undersized sewer interceptor line along the western portion of Tennyson Road between I-880 and Hesperian Road will need to be upgraded and the project will be required to contribute its fair share of the cost for such improvement. Such upgrade will entail construction of a new line parallel to the existing Tennyson Road line. Impacts associated with construction of a required new water tank and system at the Garin Reservoir site have been addressed previously.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? <i>Comment: As indicated in the Hydrology-Water Quality section of this document, the project analyzed would entail construction of new detention basins in the proposed community park. No significant impacts associated with such construction that have not been analyzed elsewhere in this document are anticipated.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Require new or expanded water supplies from existing entitlements and resources?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<u>Comment:</u> As indicated in Section 4.12 of the MG EIR, Hayward has virtually unlimited water supply from the Hetch-Hetchy system. Therefore, no such impacts would be anticipated.				
f) A determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Comment:</u> As indicated on page 183 of the MG Draft EIR, the City has sufficient capacity to serve the amount of development proposed on the subject site.				
g) Require additional landfill capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Comment:</u> Sufficient landfill capacity exists and such impacts are not anticipated to be significant.				
h) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Comment:</u> The project would be required to do so, including complying with the City's demolition and recycling ordinance.				

XIV. TRANSPORTATION - Would the project:

- | | | | | |
|--|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <u>Comment:</u> The MG EIR analyzed such impacts for a range of alternatives that anticipated a greater number of residential units on the subject site than are proposed. The MG EIR assumed a maximum of 321 units for the subject site and the proposed project would entail 179 units. The project would also entail the extension of Tennyson Road eastward to the development from Mission Boulevard and also improvements to the Mission Boulevard/Tennyson Road intersection, all of which would be done within existing right-of-way. Such impacts are anticipated to be less than significant as a result of this project.
The proposed park and community center would not be expected to generate significant traffic during peak-hour, in that such activities would generally be limited to evening and weekend hours. | | | | |
| b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p><u>Comment:</u> The MG EIR analyzed such impacts for a range of alternatives that anticipated a greater number of residential units on the subject site than are proposed. The MG EIR assumed a maximum of 321 units for the subject site and the proposed project would entail 179 units. Such impacts were determined not to exist in association with the level of development analyzed in the MG EIR. The Mission-Garin Annexation EIR received a letter of exemption from the Alameda County Congestion Management Agency's Land Use Analysis program requirements on March 1, 2003. Therefore, no such impacts are anticipated as a result of this project.</p>				
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that result in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><u>Comment:</u> The project will not impact air traffic patterns.</p>				
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><u>Comment:</u> No such undesirable design features are proposed. All roads will be required to meet City standards and the Tennyson Road/Mission Boulevard intersection improvements will require an encroachment permit from the State.</p>				
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><u>Comment:</u> The project would provide two public roads leading into the development, via extension of Tennyson Road and extension of Alquire Parkway that would lead to the southern portion of the development. The Hayward Fire Department staff has indicated the two access points are acceptable. Maximum roadway slopes in certain sections are shown at 15%, the maximum allowed by the Fire Department.</p>				
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p><u>Comment:</u> The proposed park and community center will be required to be compliant with the City's parking standards, which require one parking space for every 200 square feet of gross floor area for such facilities as the proposed community center (at 20,000 square feet would require 100 spaces). Additional parking would be provided for the proposed ball fields. The conceptual plans show approximately 170 parking spaces. Adequate land exists to accommodate parking to meet the needs of the park; therefore, such</p>				

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<i>impacts would be less than significant.</i>				
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>Comment:</u> <i>The project would not conflict with such plans.</i>				

XV. MANDATORY FINDINGS OF SIGNIFICANCE

- a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? ☐ ☒ ☐ ☐

Comment: As discussed under the Biology section, the project could impact nesting raptors, given there is suitable habitat around the periphery of the site in trees for certain species and there is potential for impacts due to tree removals. Mitigation Measures have been identified to reduce such impacts to levels of insignificance.

- b) Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals? ☐ ☐ ☒ ☐

Comment: No such impacts have been identified. The project would provide housing opportunities for Hayward area residents, including those associated with affordable housing, due to the City's Inclusionary Housing Ordinance.

- c) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)? ☐ ☐ ☐ ☒

Comment: No such impacts have been identified.

- d) Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly? ☐ ☒ ☐ ☐

Comment: As indicated in the Air Quality, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality and Noise sections, the project could cause substantial adverse effects on human beings due to the potential presence of naturally-occurring asbestos, particulate matter, earthquake fault traces and other geologic hazards such as landslides, steep slopes with the potential to erode and construction noise. Mitigation measures have been identified to reduce such impacts to levels of insignificance.

List of Exhibits

- A Development plans (Vesting Tentative Map, Preliminary Development Plan, Architectural Plans)
- B General Plan Land Use Designations
- C Zoning/Prezoning Designations
- D Aerial vicinity map
- E Vantage point reference map for photo simulations
- F Photo simulation of development viewed toward east at the Tennyson Road/Mission Blvd. intersection
- G Photo simulation of development viewed from the South Hayward BART Station platform
- H Photo simulation of development viewed toward east across the CalTrans property along Dixon Street
- I Photo simulation of development viewed toward north along proposed Alquire Parkway connector road
- J "Tree Report, La Vista Quarry, Hayward, CA," by HortScience, Inc., March 2005
- K "Final Regulation Order, Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations," California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 7.5, Sections 93105 et seq.)
- L "La Vista Quarry California Red-legged Frog Habitat Assessment," by Wetland Research Associates, May 23, 2005
- M "La Vista Quarry Alameda Whipsnake Habitat Assessment," by Wetland Research Associates, May 23, 2005
- N "La Vista Quarry Nesting Raptor and Shrike Studies," by Wetland Research Associates, May 23, 2005
- O "La Vista Quarry Golden Eagle Studies," by Wetland Research Associates, May 23, 2005
- P "La Vista Quarry Rare Plant Survey," by Wetland Research Associates, May 23, 2005
- Q "La Vista Quarry Wetland Delineation," by Wetland Research Associates, May 23, 2005
- R "Design-Level Geotechnical Report, Proposed La Vista Quarry Development, La Vista Quarry Site and Marcotte Property, Hayward, California, Volume 1 of 3," by Berlogar Geotechnical Consultants, March 24, 2005
- S "Geotechnical and Geologic Review, Proposed La Vista Quarry Development, Hayward, California," by Harlan Tait Associates, Consulting Geotechnical Engineers, May 24, 2005
- T "Supplemental Recommendations for Capping Serpentine, Proposed La Vista Quarry Development, La Vista Quarry Site and Marcotte Property, Hayward, California," by Berlogar Geotechnical Consultants, June 2, 2005

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La Vista Development Mitigation Monitoring and Reporting Program

**General Plan Application No. PI-2005-0157;
Planned Development Application No. PI-2005-0158;
Vesting Tentative Tract Map 7620/PI-2005-0156;
The DeSilva Group (Applicant)
The DeSilva Group, Dumbarton Quarry Associates,
Howard M. Settle, Maxine F. Theobald, Andrew E. Garin and
Richard S. & Annette P. Warren (Owners)**

June, 2005

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Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact I-c: visual character:</u> <i>Additional trees may be required to be removed in the western area of the park and possible community center, which could degrade the existing visual character of the site. Also, the project would also entail construction of an additional water tank at the Garin Reservoir site, located to the south off Garin Avenue. The introduction of a new tank could also degrade the existing visual character of the surrounding site in the area.</i></p>	<p><u>Mitigation Measure I-c: In accordance with Mitigation Measure 4.1-1 of the Mission-Garin Annexation Program Project Environmental Impact Report (MG EIR), the additional tank will be required to be painted neutral, earth-tone colors to blend in with the natural environment and screened with trees and shrubs, in accordance with the City's Hillside Design Guidelines. Also, any tree removals shall be replaced with new trees equal in size and species or value, in accordance with the City's Tree Preservation Ordinance, to be approved by the City Landscape Architect. Implementation of such measure will ensure such impacts generated by the project are less than significant.</u></p>	<p>Project developers, including project landscape architect and contractor.</p>	<p>City of Hayward Planning Division, Engineering and Transportation Division and Building Division</p>	<p><u>Trees:</u> Prior to project finalization.</p> <p><u>Water Tank:</u> At time of construction of water tank at the Garin Reservoir site and prior to final of building permit.</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<i>Impact I-d (lighting): Proposed street lights and exterior lighting associated with new homes could adversely affect nighttime views of the area from surrounding homes in the area and from views toward the hills from the west.</i>	<i>Mitigation Measure I-d: In accordance with MG EIR Mitigation Measure 4.1-3, a detailed lighting plan shall be provided, to be submitted as part of a precise development plan; to incorporate fixtures that shall ensure that lighting off of the project site will be minimized, to prohibit landscape uplighting, with fixtures and plan to be approved by the Planning Director. Implementation of such measure will ensure lighting and glare impacts are less than significant.</i>	Project Developers, including project architect and general contractor	City of Hayward Planning Division, Building Division and Engineering and Transportation Division	Approvals to be granted prior to installation and verification of such lights to be granted prior to project finalization

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact III-b (naturally occurring asbestos):</u> Serpentinite fragments that may exist in the unengineered fill on site and in imported material brought to the site have the potential to contain asbestos material, which could be released into the air if disturbed, which could negatively impact nearby residents.</p>	<p><u>Mitigation Measure III-b:</u> Prior to the start of any construction or grading activity, including hauling of material to the project site, an asbestos dust mitigation plan approved by the Bay Area Air Quality Management District (BAAQMD) shall be implemented throughout the duration of construction or grading activity. In accordance with the State's "Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations" (CCR Title 17, Division 3, Chapter 1, Subchapter 7.5, Sections 93105 et seq.), the dust mitigation plan must specify dust mitigation practices which are sufficient to ensure that no equipment or operation emits dust that is visible crossing the property line, and must include one or more provisions addressing each of the following topics:</p> <ul style="list-style-type: none"> a) Track-out prevention and control measures. b) Keeping active storage piles adequately wetted or covered with tarps. c) Control for disturbed surface areas and storage piles that will remain inactive for more than seven (7) days. 	<p>Project Developers, including project grading and construction contractors</p>	<p>Bay Area Air Quality Management District, Hayward Public Works Department personnel and Hayward's grading inspector consultant</p>	<p>Obtain approval from Bay Area Air Quality Management District prior to start of grading, implement provisions of Asbestos Dust Mitigation Plan throughout project grading and construction</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<u>Impact III-b (naturally occurring asbestos), cont...</u>	<i>d) Control for traffic traveling on project site unpaved roads, parking lots and staging areas. e) Control for earth moving activities. f) Control for off-site transport. g) Post construction stabilization of disturbed areas. h) Air-monitoring for asbestos (if required by the BAAQMD's Air Pollution Control Officer). i) Frequency of reporting. Implementation of such measures will ensure air quality impacts related to naturally occurring asbestos are less than significant.</i>			

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<u>Impact III-c (particulate matter):</u> <i>The project, which is proposed to entail roughly 3.16 million cubic yards of balanced on-site cut and fill grading, and also approximately 416,000 cubic yards of imported material, has the potential through the release of dust, to exceed particulate matter standards and negatively affect local residents.</i>	<u>Mitigation Measure III-c:</u> <i>In accordance with MG EIR Mitigation Measure 4.2-1, grading activities shall incorporate standard dust control measures, to include, but not be limited to frequent watering of the site, use of soil stabilizers, hydroseeding of graded areas and other measures that comply with Bay Area Air Quality Management District recommendations for dust control. Project construction grading plans shall state such measures on the plans, to be approved by the Hayward Public Works Department staff. Implementation of such measure will ensure such impacts are less than significant.</i>	Project Developers, including project grading and construction contractors	Hayward Public Works Department personnel and Hayward's grading inspector consultant	Obtain approval from Hayward Public Works Department prior to issuance of grading permits; implement dust control measures throughout project grading and construction
<u>Impact III-d (fine particulate matter):</u> <i>The proximity of proposed grading, including truck traffic associated with hauling of grading material, to adjacent residences has the potential to expose occupants of those homes to elevated levels of fine particulate matter.</i>	<u>Mitigation Measure III-d:</u> <i>Implement Measures III-b and III-c above, which will ensure such air quality impacts are less than significant.</i>	Project Developers, including project grading and construction contractors	Hayward Public Works Department personnel and Hayward's grading inspector consultant	Obtain approval from Hayward Public Works Department prior to issuance of grading permits; implement dust control measures throughout project grading and construction

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact IV-a (special-status species):</u> <i>Given the proximity of the project to Garin Regional Park, the project has the potential to significantly impact special-status plant and animal species and their habitat.</i></p>	<p><u>Mitigation Measure IV-a:</u> <i>In accordance with Mitigation Measures 4.3-5 through 4.3-6 of the Mission-Garin Annexation EIR, prior to the start of grading or construction, the U.S. Fish and Wildlife Service (USFWS) shall confirm all habitat assessments conducted by Wetland Research Associates for California red-legged frog and Alameda whipsnake. If California red-legged frogs or Alameda whipsnakes and/or their occupied habitats are determined to be present based on results of habitat assessments or protocol-level surveys, then a project specific California red-legged frog and/or Alameda whipsnake mitigation plan should be developed, approved by the USFWS and CDFG prior to development, and implemented.</i></p> <p><i>In accordance with Mitigation Measures 4.3-7 through 4.3-8 of the Mission-Garin Annexation EIR, prior to the start of grading or construction, surveys utilizing protocols acceptable to the resource agencies, including burrowing owl survey protocol and protocol for Golden Eagle surveys established by the California Department of Fish and Game (CDFG), shall be conducted.</i></p>	<p>Project Developers, including biological consultants and contractors</p>	<p>Hayward Planning Division and, if mitigation plans are required, California Department of Fish and Game and US Fish and Wildlife Service</p>	<p>Surveys to be completed prior to start of grading; mitigation plans, if required, to be implemented prior to and throughout construction period</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<u>Impact IV-a (special-status species), cont...</u>	<p><i>If such surveys reveal the presence of nesting Golden Eagles within 0.25 mile and in direct line-of-sight distance from project activity, presence of Western burrowing owls within 250 feet, presence of loggerhead shrikes within 200 feet or presence of any other special-status raptors within 300 feet of project activity, construction activity within the above-specified buffer zones shall be completed before the nesting season or be postponed until after the nesting season (March through the end of August). The limit related to presence of Golden Eagles shall be applicable during the entire tenure eagles are actively nesting within the buffer zone, not just during the typical breeding season.</i></p> <p><i>Also, given suitable on-site habitat exists for loggerhead shrike and a nesting pair of red-tailed hawks was observed on site, further raptor and shrike and Golden Eagle surveys following survey protocols established by resource agencies shall be conducted during the nesting season immediately preceding start of grading or construction, to confirm no active raptor nests exist that could be impacted by construction activities.</i></p>			

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact IV-c (wetlands):</u> Grading for the proposed eastward extension of Tennyson Road could impact the existing wetland located approximately 650 feet to the east of Mission Boulevard.</p>	<p><u>Mitigation Measure IV-c:</u> Prior to the issuance of permits for grading or construction for the proposed Tennyson Road extension, formal jurisdictional wetland delineation/verification shall be secured from the US Army Corps of Engineers, including for the area associated with the eastward extension of Tennyson Road. If such delineation indicates a wetland exists which would be unavoidable and impacted by the proposed Tennyson Road extension or any other portion of the project, a permit/approval from the Corps shall be obtained and a wetland mitigation plan utilizing the standard minimum replacement ratio of 1:1 shall be developed and implemented prior to the start of grading and construction. Such mitigation plan shall be approved by the US Army Corps of Engineers, the California Department of Fish and Game and the California Regional Water Quality Control Board. Such measure will ensure impacts to jurisdictional wetlands as a result of the project would be less than significant.</p>	<p>Project Developers, including project grading and construction contractors</p>	<p>US Army Corps of Engineers, in consultation with the US Fish and Wildlife Service and Hayward Public Works Department and Planning Division</p>	<p>Delineations from US Army Corps of Engineers shall be secured prior to start of grading; any wetland mitigation shall be implemented prior to and throughout project construction, with post-construction monitoring to be done, if required by the US Army Corps of Engineers</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact IV-e (trees):</u> The project would entail removal of 17 of the 153 on-site trees. Since the 17 Blue Gum Eucalyptus trees exceed eight inches in diameter, they are considered "protected" trees, per the City's Tree Preservation Ordinance, and are required to be replaced with "like-size, like-kind trees or an equal value tree or trees as determined by the City's Landscape Architect." Also, additional trees may be removed as part of construction of the proposed community center and park and detention basins.</p>	<p><u>Mitigation Measure IV-e:</u> In accordance with Hayward's Tree Preservation Ordinance, any "protected" trees as defined by the City's Tree Preservation Ordinance that are to be removed as a result of the project shall be replaced with like-size, like-kind trees or trees equal in value to them, as determined by the City's Landscape Architect. Such measures will ensure impacts due to removal of protected trees are less than significant.</p>	<p>Project Developers, including project grading and landscape contractors, and landscape engineer</p>	<p>City of Hayward Planning Division (City's Landscape Architect)</p>	<p>Plans to be submitted and approved prior to issuance of grading permits; trees to be planted prior to project finalization</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact VI-ai) (earthquake fault trace):</u> Construction of homes close to the active Hayward fault trace could result in injuries, death and/or property damage as a result of fault trace rupture.</p>	<p><u>Mitigation Measure VI-ai):</u> No habitable structures, including a possible community center, shall be built closer than 50 feet of the active Hayward fault trace and concentrated fault zone, as indicated on the submitted plans. Additionally, special foundation designs shall be incorporated into homes proposed to be built within the identified special foundation zone at the southeast corner of the proposed development. The design of such foundations and location of homes and possible community center shall be in accordance with the recommendations of the project geotechnical consultant, to be confirmed via plan review and "as-built" letters from the project geotechnical consultant, to be submitted prior to issuance of building permits and prior to project finalization, respectively. Such measures will ensure impacts related to fault rupture are less than significant.</p>	<p>Project Developers, including project geotechnical consultant and grading and building contractors</p>	<p>City of Hayward Planning and Building Divisions</p>	<p>Plan review letter due prior to issuance of building permits; "as-built" letter due prior to project finalization and before framing inspections, confirming on-site observations by project geotechnical consultants was done throughout construction</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact VI-aii) (seismic ground-shaking):</u> <i>The fact that the active Hayward fault runs through the project site increases the chances that severe ground shaking will likely occur during a major seismic event, which could result in loss of life and/or property.</i></p>	<p><u>Mitigation Measure VI-aii:</u> <i>As recommended by the City's geotechnical peer-reviewer, prior to issuance of construction permits, the project geotechnical consultant shall review the final construction plans to ensure that site grading, fault and slope setbacks, foundation designs, subdrainage, etc. are in accordance with the project consultant's recommendations, and provide a plan review letter to the City. Also, the project certified engineering geologist and geotechnical engineer shall be on site during grading, excavations, keyways, cuts, etc. to verify that actual geologic conditions, fault locations and special foundation zones are as anticipated and that appropriate supplemental recommendation be provided, as necessary. The results of such inspections, testing, and/or modifications shall be documented in an "as-built" letter/report prepared by the project engineering geologist/geotechnical engineer and submitted to the City before final approval of permits is granted.</i></p>	<p>Project Developers, including project geotechnical consultant and grading and building contractors</p>	<p>City of Hayward Planning and Building Divisions</p>	<p>Plan review letter due prior to issuance of building permits; "as-built" letter due prior to project finalization and before framing inspections, confirming on-site observations by project geotechnical consultants was done throughout construction</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<u>Impact VI-aii) (seismic ground-shaking), cont...:</u>	<i>Implementation of such measures, including careful monitoring of grading during construction by the project engineering geologist and geotechnical engineer, will ensure such impacts are less than significant.</i>			
<u>Impact VI-aiv) (landslides):</u> See discussion under item VI-aii above.	<u>Mitigation Measure VI-aiv:</u> <i>Implement Mitigation Measure VI-aii, which will reduce the significance of landslide-related impacts to a level of insignificance.</i>	Project Developers, including project geotechnical consultant and grading and building contractors	City of Hayward Planning and Building Divisions	Plan review letter due prior to issuance of building permits; "as-built" letter due prior to project finalization and before framing inspections, confirming on-site observations by project geotechnical consultants was done throughout construction
<u>Impact VII-b (erosion):</u> <i>Unprotected areas after finished grading could result in soil erosion and loss of topsoil, impacting on-site and off-site improvements.</i>	<u>Mitigation Measure VII-b:</u> <i>All exposed areas within the proposed project limits of grading are to be planted with vegetation, to the satisfaction of the City's Landscape Architect or, if temporary stockpiles of material are created on-site, covered with material to prevent material from being washed away.</i>	Project Developers and grading and construction contractors	City of Hayward Planning Division and Public Works Department staff and grading inspector consultant	Throughout project construction

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<u>Impact VI-c (unstable soils):</u> See discussion under item VI-aii above.	<u>Mitigation Measure VI-c:</u> <i>Implement Mitigation Measure VI-aii, which will reduce the significance of such impacts to a level of insignificance.</i>	Project Developers, including project geotechnical consultant and grading and building contractors	City of Hayward Planning and Building Divisions	Plan review letter due prior to issuance of building permits; "as-built" letter due prior to project finalization and before framing inspections, confirming on-site observations by project geotechnical consultants was done throughout construction

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact VII-b (1) (naturally-occurring asbestos in ground):</u> <i>Release of asbestos fibers through disturbance of soil containing such material could result in a health hazard to nearby residents and workers.</i></p>	<p><u>Mitigation Measure VII-b (1):</u> <u>Implement Mitigation Measure III-b (Asbestos Dust Mitigation Plan).</u> <i>Also, reflective of recommendations of the project geotechnical consultant, no asbestos-containing material shall be placed within 10 feet of the finished grade surface within the proposed development, including all residential lots, streets and roads, outdoor open space areas and trails within and immediately adjacent to the development, and in the proposed community center and park areas and roads leading to the development (not intended to apply to reclaimed eastern hillside above development).</i> <i>Additionally, material to be used for the upper area "cap" shall be tested in accordance with a State-approved testing method, such as the Air Resources Board's Test Method 435, to confirm such material does not contain more than 0.25 percent asbestos material. Such measures will ensure impacts resulting from release of asbestos-containing materials will be less than significant.</i></p>	<p>Project Developers, including project grading and construction contractors</p>	<p>Bay Area Air Quality Management District, Hayward Public Works Department personnel and Hayward's grading inspector consultant</p>	<p>Obtain approval from Bay Area Air Quality Management District prior to start of grading, implement provisions of Asbestos Dust Mitigation Plan throughout project grading and construction</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact VII-b (2) (soil contaminants):</u> Also, contaminants in the soil related to the existing surface mining operation could pose a threat to construction workers and future residents and users of the community park.</p>	<p><u>Mitigation Measure VII-b(2):</u> In accordance with Mitigation Measure 4.6-1(a) of the MG EIR, prior to start of project grading, project developers shall contact the Alameda County Environmental Health Department, Bay Area Air Quality Management District, State Department of Toxic Substances Control and the Hazardous Materials Division of the Hayward Fire Department, for required site clearances, necessary permit and facility closure with regard to demolition and removal of hazardous material from the site. All work shall be performed by licensed contractors in accordance with state and federal OSHA standards. Worker safety plans shall be included for all demolition plans. Additionally, a Phase I Preliminary Site Assessment (PSA) shall be conducted to assess conditions and activities at the site in association with a surface mining operation that could represent the potential presence of hazardous materials.</p> <p>Also, if justified by the PSA, additional studies, including possibly a Phase II soil and groundwater quality investigation shall be</p>	<p>Project Developers, including project grading and construction contractors</p>	<p>Hayward Fire Department – Hazardous Materials Division and, if applicable, Alameda County Environmental Health Department, Bay Area Air Quality Management District and the State Department of Toxic Substances Control</p>	<p>Required site clearances to be obtained prior to start of grading; implementation of required measures to be done throughout project grading and construction</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<u>Impact VII-b (2) (soil contaminants), cont...:</u>	<i>conducted, with remedial measures identified in such investigation to be implemented in accordance with standard practices. Implementation of such measures will reduce such impacts to levels of insignificance.</i>			
<u>Impact VII-g (emergency response):</u> <i>The planned extension of Tennyson Road and Alquire Parkway, and the connector road linking those extensions, roadways and utility lines that are proposed to cross the Hayward earthquake fault trace may be damaged during a seismic event, which could impair evacuation and emergency response activities during an emergency event.</i>	<u>Mitigation Measure VII-g:</u> <i>Recommendations of the project geotechnical engineer related to street and utility lines shall be incorporated into the project design. Such recommendations indicate that utility lines are to be placed east of the Hayward earthquake fault trace for the Alquire Parkway extension and that special design features, such as flexible pipes, shutoff valves on either side of the fault trace and use of an outer conduit, be incorporated where utility lines would cross the fault trace for the Tennyson Road extension. The design of water main pipes crossing the Hayward fault trace shall be consistent with the City's Standard Detail 227. Such measures will ensure such impacts will be less than significant.</i>	Project Developers, including project grading and construction contractors and project geotechnical engineer	Hayward Building Division and Public Works Department	Design shall be shown in plans, to be approved prior to issuance of construction permits; design shall be implemented during construction

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact VII-h (wildland fires):</u> <i>However, hazards will exist during construction phases for both construction workers and surrounding (downhill) residents, unless proper measures are implemented, including providing adequate emergency vehicle access and sufficient water supply for fire suppression.</i></p>	<p><u>Mitigation Measure VII-h:</u> <i>Prior to start of construction involving combustible materials, or as required by the Hayward Fire Department, an additional water tank equal in size to the existing water tank, shall be constructed at the Garin Reservoir Site to the south of the project, and improved with a water system acceptable to the Hayward Fire and Public Works Departments that would bring adequate water supply and pressure to the project site. Also, prior to the start of construction involving combustible materials, roadways acceptable to the Hayward Fire Department shall be constructed, to provide emergency vehicle access to the project site. Also, a fuel management plan, acceptable to the Hayward Fire Department, shall be implemented throughout construction and incorporated into the design of homes and structures. Such measures will ensure hazards related to wildland fires are insignificant.</i></p>	<p>Project developers, including project designers and engineers</p>	<p>Hayward Building Division, Public Works Department and Fire Department</p>	<p><u>New water tank and system:</u> Prior to construction involving combustible materials, or as allowed by the Hayward Fire Department</p> <p><u>Fuel Management Plan:</u> Incorporated into project design prior to issuance of construction permits and implemented throughout and after construction, prior to project finalization and via annual inspection by Hayward Fire Department</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact VIII-a (water quality):</u> <i>During construction and after project completion, there is the potential for erosion of exposed surfaces to enter the stormwater system, which could negatively impact water quality and violate water quality standards.</i></p>	<p><u>Mitigation Measure VIII-a:</u> <i>Per State regulations, a Notice of Intent (NOI), and Storm Water Pollution Prevention Plan (SWPPP) and Stormwater Quality Protection Plan shall be prepared and submitted to the State for review and approval. These documents shall also be submitted along with the grading permit application for review and approval by the City of Hayward. Grading and construction plans shall incorporate erosion and sedimentation control measures to be implemented during all phases of construction activities. The improvement plans for the project shall incorporate Best Management Practices (BMP's) designed in accordance with applicable provisions of the Alameda County Clean Water Program NPDES permit Section C.3, including the hydraulic sizing criteria, which will ensure that storm water runoff is treated prior to discharge from the site and that runoff rates are such that downstream impacts are reduced to the maximum extent practical. Such measures will ensure that water quality impacts are less than significant.</i></p>	<p>Project developers, including project designers and engineers, and grading and construction contractors</p>	<p>San Francisco Bay Regional Water Quality Control Board, Hayward Public Works Department and Hayward grading inspector consultant</p>	<p>Approvals of plans to be obtained prior to issuance of grading permits; requirements of plans to be implemented throughout project construction and confirmed prior to project finalization</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<u>Impact VIII-c (drainage):</u> <i>The proposed stormwater drainage system could result in substantial erosion that could negatively impact downstream properties.</i>	<u>Mitigation Measure VIII-c:</u> <i>The development plans for the site will not substantially alter the drainage pattern of the area. The development's improvement plans will incorporate BMP's, including erosion and sedimentation control measures, that will treat all water prior to discharge and will ensure that the discharge rate from the site is consistent with existing rates.</i>	Project developers, including project designers and engineers, and grading and construction contractors	Hayward Public Works Department and Hayward grading inspector consultant	Approvals of plans incorporating Best Management Practices (BMP's), including erosion and sedimentation control measures, to be obtained prior to issuance of grading permits; requirements of plans to be implemented throughout project construction and confirmed prior to project finalization

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact VIII-e (drainage capacity):</u> <i>The project could generate stormwater runoff that could exceed the capacity of downstream facilities.</i></p>	<p><u>Mitigation Measure VIII-e:</u> <i>Proposed detention basins and project drainage system shall be designed in accordance with Alameda County Flood Control and Water Conservation District's standards, with such design to be supported via hydraulic calculations from the project engineer, to be reviewed and approved by the ACFC and the City of Hayward Public Works Department. Any increased flow resulting from the proposed development would be required to be mitigated on-site. Implementation of such measures will ensure no impacts related to capacity of downstream facilities would be significant.</i></p>	<p>Project developers, including project designers and engineers, and grading and construction contractors</p>	<p>Hayward Public Works Department and Alameda Flood Control and Water Conservation District staff</p>	<p>Approvals of plans reflecting hydraulic calculations to be obtained prior to issuance of grading permits; design to be implemented during construction and verified prior to project finalization</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact XI-a (temporary construction noise):</u> <i>The project could negatively impact nearby residents due to temporary excessive construction noise.</i></p>	<p><u>Mitigation Measure XI-a:</u> <i>In accordance with MG EIR Mitigation Measure 4.9-1, a Construction Noise Management Plan shall be prepared and implemented. Such plan must be approved by the Hayward Community and Economic Development Director prior to issuance of grading permits and shall contain, at minimum, a listing of hours of construction operations (which shall be in accordance with the City's construction hours), use of mufflers on construction equipment, limitation of on-site speed limits, identification of haul routes to minimize travel through residential areas and identification of noise monitors. Specific noise management measures shall be included in appropriate contractor specifications. Such measures will reduce temporary construction noise impacts to levels of insignificance.</i></p>	<p>Project developers, including project grading and construction contractors</p>	<p>Hayward Public Works Department, Planning and Building Divisions and Hayward Police Department</p>	<p>Construction Noise Management plan to be developed and approved prior to issuance of construction permits; measures to be implemented throughout project construction</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact XI-d (temporary ambient noise level increases):</u> As indicated under item XI-a above, there will be expected temporary significant construction noise impacts.</p>	<p><u>Mitigation Measure XI-d:</u> Implement Mitigation Measure XI-a, which would reduce such impacts to a level of insignificance.</p>	<p>Project developers, including project grading and construction contractors</p>	<p>Hayward Public Works Department. Planning and Building Divisions and Hayward Police Department</p>	<p>Construction Noise Management plan to be developed and approved prior to issuance of construction permits; measures to be implemented throughout project construction</p>